SA 4960. Mr. VITTER (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4961. Mr. VITTER (for himself, Mr. CRAIG, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4962. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4963. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4964. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4965. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4966. Mr. BROWN (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4967. Mr. BROWN (for himself, Mr. LEVIN, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4968. Mr. BROWN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4969. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4970. Mr. DEMINT (for himself, Mr. INHOFE, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4971. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4972. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4973. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4974. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, supra; which was ordered to lie on the table.

SA 4975. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4863.** Mr. CORKER (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, lines 20 and 21, strike ''sections 1313(a) and 1314(b)'' and insert ''section 1313(a)''.

On page 78, lines 4 and 5, strike ''international allowances under section 322 and''.

Beginning on page 112, strike line 3 and all that follows through page 116, line 16.

On page 150, strike lines 15 through 23 and insert the following:

(3) Increase the quantity of offset allowances

Beginning on page 424, strike line 4 and all that follows through page 425, line 25, and insert the following:

**SEC. 1311. SENSE OF SENATE REGARDING ENCOURAGEMENT OF INTERNATIONAL EFFORTS TO REDUCE GREENHOUSE GAS EMISSIONS FROM DEFORESTATION.**

(a) FINDINGS.—The Senate finds that—

(1) tropical deforestation accounts for 20 percent of the global total of human-caused greenhouse gas emissions each year;

(2) efforts to greatly reduce global tropical deforestation are important to stabilizing global atmospheric greenhouse gases at levels that would avoid dangerous anthropogenic interference with the climate system;

(3) the Federal Government supports efforts to preserve and restore global forest ecosystems as part of a coordinated effort to respond to global warming;

(4) notwithstanding the desirability of reducing tropical deforestation as part of a global warming program, there remain a large number of unresolved issues surrounding the validity of international offsets as a means for ensuring actual reductions in emissions of greenhouse gases;

(5) the integrity of the emission reductions required under the domestic cap-and-trade program under this Act would be strengthened if international forestry projects were not pursued as offsets; and

(6) it is desirable to create a global funding stream sufficient to reduce global deforestation rates.

(b) SENSE OF SENATE.—It is the sense of the Senate that, in recognition of the importance of international forest protection to stabilizing global climate, Congress should develop a mechanism to encourage international efforts to reduce greenhouse gas emissions from deforestation.

On page 426, line 10, strike ''sections 1313 and 1314'' and insert ''section 1313''.

Beginning on page 430, strike line 1 and all that follows through page 437, line 16.

**SA 4864.** Mr. CORKER (for himself, Mr. CRAIG, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, between lines 16 and 17, insert the following:

(11) CLIMATE TAX REFUND FUND.—The term ''Climate Tax Refund Fund'' means the fund established by section 581.

On page 159, strike lines 3 through 18 and insert the following:

The Administrator shall deposit the proceeds from each cost-containment auction in the Climate Tax Refund Fund for use in accordance with section 584.

On page 161, lines 11 and 12, strike ''Change Worker Training and Assistance'' and insert ''Tax Refund''.

On page 161, line 16, strike ''Change Worker Training and Assistance'' and insert ''Tax Refund''.

On page 161, line 24, strike ''Change Worker Training and Assistance'' and insert ''Tax Refund''.

In the heading of the right column of the table contained on page 162, after line 17, strike ''Change Worker Training and Assistance'' and insert ''Tax Refund''.

In the left column of the table that appears on page 163, before line 1, strike ''2059'' and insert ''2050''.

On page 163, lines 4 and 5, strike ''Change Worker Training and Assistance'' and insert ''Tax Refund''.

Beginning on page 163, strike line 6 and all that follows through page 164, line 20.

Beginning on page 164, strike line 21 and all that follows through page 183, line 3.

On page 201, line 22, strike ''Change Consumer Assistance'' and insert ''Tax Refund''.

On page 202, strike lines 3 and 4 and insert the following:

(b) and (c) and in addition to other auctions conducted pursuant to this Act, to raise funds for deposit in the Climate Tax Refund Fund, for each of calendar

On page 202, line 11, strike ''Change Consumer Assistance'' and insert ''Tax Refund''.

In the heading of the right column of the table contained on page 203, after line 2, strike ''Change Consumer Assistance'' and insert ''Tax Refund''.

On page 204, lines 1 and 2, strike ''Change Consumer Assistance'' and insert ''Tax Refund''.

On page 204, strike lines 3 through 14 and insert the following:

**SEC. 584. USE OF AMOUNTS IN CLIMATE TAX REFUND FUND.**

(a) DEFINITIONS.—In this section:

(1) QUALIFIED COUPLE.—The term ''qualified couple'' means a married couple the combined annual income of which does not exceed $300,000.

(2) QUALIFIED INDIVIDUAL.—The term ''qualified individual'' means an individual the annual income of whom does not exceed $150,000.

(b) REIMBURSEMENTS.—The Administrator shall establish, by regulation, a program under which, for each of calendar years 2012 through 2050, the Administrator, in consultation with the Secretary of the Treasury, shall use amounts deposited in the Climate Tax Refund Fund for the calendar year to provide to qualified couples and qualified individuals reimbursement in an amount described in subsection (c).

(c) AMOUNTS.—For each calendar year described in subsection (b), the amount of reimbursement paid to each qualified couple and each qualified individual shall be determined proportionately, based on the total amount in the Climate Tax Refund Fund for the calendar year.

Beginning on page 204, strike line 22 and all that follows through page 217, line 4, and insert the following:

**SEC. 601. ASSISTING ENERGY CONSUMERS.**

(a) AUCTION.—

(1) FIRST PERIOD.—Not later than 330 days before the beginning of calendar year 2012, the Administrator shall auction 12.75 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year.

(2) SECOND PERIOD.—Not later than 330 days before the beginning of each of calendar years 2013 through 2025, the Administrator shall auction 13 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year.

(3) THIRD PERIOD.—Not later than 330 days before the beginning of each of calendar years 2026 through 2050, the Administrator shall auction 13.5 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year.

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to subsection (a) in the Climate Tax Refund Fund, for use in accordance with section 584.

On page 217, strike lines 8 through 16 and insert the following:

(1) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall auction a percentage of the quantity of emission allowances established pursuant to section 201(a) for the applicable calendar year, in accordance with the table contained in paragraph (2).

On page 217, line 19, strike ''allocate to States described in'' and insert ''auction under''.

In the heading of the right column of the table contained on page 217, after line 21, strike ''allocation among States relying heavily on manufacturing and on coal'' and insert ''auction''.

Beginning on page 218, strike line 1 and all that follows through page 222, line 4, and insert the following:

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to subsection (a) in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 222, strike line 8 and all that follows through page 223, line 11, and insert the following:

**SEC. 611. MASS TRANSIT.**

(a) AUCTION OF ALLOWANCES.—In accordance with subsections (b) and (c), for each of calendar years 2012 through 2050, the Administrator shall auction a quantity of the emission allowances established pursuant to section 201(a) for each calendar year.

(b) NUMBER; FREQUENCY.—For each calendar year during the period described in subsection (a), the Administrator shall—

(1) conduct not fewer than 4 auctions; and

(2) schedule the auctions in a manner to ensure that—

(A) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(B) the interval between each auction is of equal duration.

(c) QUANTITIES OF EMISSION ALLOWANCES AUCTIONED.—For each calendar year of the period described in subsection (a), the Administrator shall auction a quantity of emission allowances in accordance with the applicable percentages described in the following table:

Beginning on page 224, strike line 1 and all that follows through page 228, line 25, and insert the following:

(d) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

On page 240, strike lines 5 through 17 and insert the following:

(a) IN GENERAL.—In accordance with subsection (b), for each of calendar years 2012 through 2050, the Administrator shall—

(1) auction 2 percent of the emission allowances established pursuant to section 201(a) for the calendar year; and

(2) immediately on completion of an auction, deposit the proceeds of the auction in the Climate Tax Refund Fund, for use in accordance with section 584.

On page 241, strike lines 6 through 21 and insert the following:

(a) AUCTION.—

(1) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall auction a percentage of the quantity of emission allowances established pursuant to section 201(a) for the applicable calendar year, in accordance with paragraph (2).

(2) PERCENTAGES FOR AUCTION.—For each of calendar years 2012 through 2050, the Administrator shall auction in accordance with paragraph (1) the percentage of emission allowances specified in the following table:

In the heading of the right column of the table contained on page 241, after line 21, strike ''State leaders in reducing greenhouse gas emissions and improving energy efficiency'' and insert ''auction''.

Beginning on page 242, strike line 1 and all that follows through page 249, line 9, and insert the following:

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section in the Climate Tax Refund Fund, for use in accordance with section 584.

On page 249, strike lines 13 through 24 and insert the following:

**SEC. 621. AUCTION.**

(a) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall auction a percentage of the quantity of emission allowances established pursuant to section 201(a) for the applicable calendar year, in accordance with subsection (b).

(b) PERCENTAGES FOR ALLOCATION.—For each of calendar years 2012 through 2050, the Administrator shall auction in accordance with subsection (a) the per-

In the heading of the right column of the table contained on page 250, after line 2, insert ''auction to'' after ''Percentage for''.

Beginning on page 250, strike line 3 and all that follows through page 267, line 11, and insert the following:

**SEC. 622. USE OF PROCEEDS.**

The Administrator shall deposit all proceeds of auctions conducted pursuant to this subtitle, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 267, strike line 16 and all that follows through page 268, line 19, and insert the following:

**SEC. 631. AUCTIONS.**

(a) AUCTIONS.—

(1) IN GENERAL.—In accordance with paragraph (2) and subsection (b), for each of calendar years 2012 through 2050, the Administrator shall auction a percentage of emission allowances established for the calendar year pursuant to section 201(a) to raise funds for deposit in the Climate Tax Refund Fund.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(b) QUANTITIES OF EMISSION ALLOWANCES AUCTIONED.—For each calendar year of the period described in subsection (a)(1), the Administrator shall auction a quantity of emission allowances in accordance with the applicable percentages described in the following table:

In the heading of the right column of the table contained on page 268, after line 19, strike ''for Fund''.

Beginning on page 269, strike line 1 and all that follows through page 279, line 14, and insert the following:

(c) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 283, strike line 14 and all that follows through page 292, line 16, and insert the following:

**SEC. 801. AUCTIONS.**

(a) FIRST PERIOD.—Not later than 330 days before the beginning of each of calendar years 2012 through 2030, the Administrator shall auction 6.25 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(b) SECOND PERIOD.—Not later than 330 days before the beginning of each of calendar years 2031 through 2050, the Administrator shall auction 3.25 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(c) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 292, strike line 22 and all that follows through page 302, line 22, and insert the following:

**SEC. 901. AUCTIONS.**

(a) FIRST PERIOD.—

(1) IN GENERAL.—For each of calendar years 2012 through 2021, the Administrator shall, in accordance with paragraph (2), auction 1.75 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(b) SECOND PERIOD.—

(1) IN GENERAL.—For each of calendar years 2022 through 2030, the Administrator shall, in accordance with paragraph (2), auction 2 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(c) THIRD PERIOD.—

(1) IN GENERAL.—For each of calendar years 2031 through 2050, the Administrator shall, in accordance with paragraph (2), auction 1 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(d) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 303, strike line 2 and all that follows through page 304, line 7, and insert the following:

**SEC. 911. AUCTIONS.**

(a) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall, in accordance with subsection (b), auction 0.25 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year.

(b) NUMBER; FREQUENCY.—For each calendar year during the period described in subsection (a), the Administrator shall—

(1) conduct not fewer than 4 auctions; and

(2) schedule the auctions in a manner to ensure that—

(A) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(B) the interval between each auction is of equal duration.

(c) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 304, strike line 11 and all that follows through page 307, line 9, and insert the following:

**SEC. 1001. AUCTIONS.**

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and annually thereafter through 2022, the Administrator shall auction 1 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year that occurs 3 years after the calendar year during which the auction is conducted.

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 330, strike line 8 and all that follows through page 332, line 9, and insert the following:

**SEC. 1101. AUCTIONS.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall auction 0.5 percent of the quantity of emission allowances established pursuant to section 201(a) for calendar years 2012 through 2017.

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 332, strike line 12 and all that follows through page 338, line 5, and insert the following:

**SEC. 1111. AUCTIONS.**

(a) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall, in accordance with subsection (b), auction 1 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year.

(b) NUMBER; FREQUENCY.—For each calendar year during the period described in subsection (a), the Administrator shall—

(1) conduct not fewer than 4 auctions; and

(2) schedule the auctions in a manner to ensure that—

(A) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(B) the interval between each auction is of equal duration.

(c) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 338, strike line 7 and all that follows through page 340, line 21, and insert the following:

**SEC. 1121. AUCTIONS.**

(a) AUCTIONS.—

(1) FIRST PERIOD.—Not later than 330 days before the beginning of each of calendar years 2012 and 2013, the Administrator shall auction 1 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(2) SECOND PERIOD.—Not later than 330 days before the beginning of each of calendar years 2014 through 2017, the Administrator shall auction 0.75 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(3) THIRD PERIOD.—Not later than 330 days before the beginning of each of calendar years 2018 through 2030, the Administrator shall auction 1 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 352, strike line 21 and all that follows through page 354, line 9, and insert the following:

**SEC. 1201. AUCTIONS.**

(a) AUCTIONS.—

(1) IN GENERAL.—In accordance with subsections (b) and (c), for each of calendar years 2012 through 2050, the Administrator shall auction a quantity of the emission allowances established pursuant to section 201(a) for each calendar year.

(2) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

In the heading of the right column of the table contained on page 355, after line 2, strike ''for funds''.

Beginning on page 356, strike line 1 and all that follows through page 381, line 9.

Beginning on page 438, strike line 6 and all that follows through page 442, line 2, and insert the following:

**SEC. 1321. AUCTIONS.**

(a) AUCTIONS.—

(1) IN GENERAL.—In accordance with paragraph (2), for each of calendar years 2012 through 2017, the Administrator shall auction 0.5 percent of the emission allowances established pursuant to section 201(a) for the calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(b) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 442, strike line 7 and all that follows through page 443, line 16, and insert the following:

**SEC. 1331. AUCTION.**

(a) AUCTIONS.—

(1) IN GENERAL.—In accordance with paragraph (2) and subsection (b), for each of calendar years 2012 through 2050, the Administrator shall auction a certain percentage of the emission allowances established pursuant to section 201(a) for the calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(3) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this subsection, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

(b) PERCENTAGE FOR AUCTION.—For each of calendar years 2012 through 2050, the Administrator shall auction in accordance with subsection (a) the percentage of emission allowances specified in the following table:

In the heading of the right column of the table contained on page 443, after line 16, strike ''for Fund''.

Beginning on page 444, strike line 1 and all that follows through page 456, line 23.

Beginning on page 457, strike line 1 and all that follows through page 458, line 5, and insert the following:

**TITLE XIV—ADDITIONAL AUCTIONS FOR CLIMATE TAX REFUND FUND**

**SEC. 1401. ADDITIONAL AUCTIONS.**

(a) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall auction, in accordance with subsections (b) and (c), a certain percentage of the emission allowances established pursuant to section 201(a) for the calendar year to raise funds for deposit in the Climate Tax Refund Fund.

(b) NUMBER; FREQUENCY.—For each calendar year during the period described in subsection (a), the Administrator shall—

(1) conduct not fewer than 4 auctions; and

(2) schedule the auctions in a manner to ensure that—

(A) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(B) the interval between each auction is of equal duration.

(c) QUANTITIES OF EMISSION ALLOWANCES AUCTIONED.—For each of calendar years 2012 through 2050, the quantity of emission allowances auctioned pursuant to subsection (a) shall be the quantity represented by the percentages specified in the following table:

In the heading of the right column of the table contained on page 458, after line 5, strike ''Deficit Reduction'' and insert ''Climate Tax Refund''.

On page 459, strike lines 1 through 7 and insert the following:

(d) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

Beginning on page 478, strike line 19 and all that follows through page 481, line 3, and insert the following:

**Subtitle A—Additional Auctions for Climate Tax Refund Fund**

**SEC. 1701. AUCTIONS.**

(a) FIRST PERIOD.—Not later than 120 days after the date of enactment of this Act, and annually thereafter through 2027, the Administrator shall auction, to raise funds for deposit in the Climate Tax Refund Fund, 0.75

percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year that is 3 years after the calendar year during which the auction is conducted.

(b) SECOND PERIOD.—

(1) IN GENERAL.—For each of calendar years 2031 through 2050, the Administrator shall auction, in accordance with paragraph (2), 1 percent of the quantity of emission allowances established pursuant to section 201(a) for the calendar year, to raise funds for deposit in the Climate Tax Refund Fund.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of the calendar year; and

(ii) the interval between each auction is of equal duration.

(c) USE OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this section, immediately on receipt of those proceeds, in the Climate Tax Refund Fund, for use in accordance with section 584.

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**SA 4865.** Mr. MENENDEZ (for himself, Ms. SNOWE, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, line 21, strike ''2 percent'' and insert ''1.5 percent''.

On page 198, between lines 16 and 17, insert the following:

(c) LIMITATION.—No emission allowance shall be distributed to an owner or operator of an entity described in section 561(a) under this subtitle if the owner or operator, or the parent company of the owner or operator, has total annual revenue that is equal to or greater than—

(1) in the case of calendar year 2012, $100,000,000,000; and

(2) in the case of each subsequent calendar year, $100,000,000,000, as adjusted to reflect the annual rate of United States dollar inflation for the calendar year (as measured by the Consumer Price Index) since calendar year 2012.

On page 443, after line 16, strike the table and insert the following:

| Calendar year | Percentage for auction for Fund |
|---|---|
| 2012 | 1.5 |
| 2013 | 1.5 |
| 2014 | 1.75 |
| 2015 | 1.75 |
| 2016 | 1.75 |
| 2017 | 1.75 |
| 2018 | 2 |
| 2019 | 2 |
| 2020 | 2 |
| 2021 | 2 |
| 2022 | 3 |
| 2023 | 3 |
| 2024 | 3 |
| 2025 | 3 |
| 2026 | 4 |
| 2027 | 4 |
| 2028 | 4 |
| 2029 | 4 |
| 2030 | 4 |
| 2031 | 6 |
| 2032 | 6 |
| 2033 | 6 |
| 2034 | 6 |
| 2035 | 6 |
| 2036 | 6 |
| 2037 | 6 |
| 2038 | 6 |
| 2039 | 7 |
| 2040 | 7 |
| 2041 | 7 |
| 2042 | 7 |
| 2043 | 7 |
| 2044 | 7 |
| 2045 | 7 |
| 2046 | 7 |
| 2047 | 7 |
| 2048 | 7 |
| 2049 | 7 |
| 2050 | 7. |

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**SA 4866.** Mrs. MURRAY (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 8 and 9, insert the following:

**PART I—CLIMATE CHANGE WORKER TRAINING AND ASSISTANCE**

On page 181, line 14, insert ''and'' at the end.

On page 181, strike lines 17 through 19 and insert ''ties.''

On page 183, between lines 3 and 4, insert the following:

**PART II—WORKFORCE EDUCATION**

**SEC. 538. CLIMATE CHANGE WORKFORCE EDUCATION FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Climate Change Workforce Education Fund''.

(b) AUCTIONS.—Annually over the course of at least 4 auctions spaced evenly over a period beginning 330 days before, and ending 60 days before, the beginning of each of calendar years 2012 through 2050, the Administrator shall, for the purpose of raising funds to deposit in the Climate Change Workforce Education Fund, auction a quantity of emission allowances established for that year pursuant to section 201(a) in accordance with the applicable percentages described in the following table:

| Calendar year | Percentage for auction for Climate Change Workforce Education Fund |
|---|---|
| 2012 | 1 |
| 2013 | 1 |
| 2014 | 1 |
| 2015 | 1 |
| 2016 | 1 |
| 2017 | 1 |
| 2018 | 2 |
| 2019 | 2 |
| 2020 | 2 |
| 2021 | 2 |
| 2022 | 2 |
| 2023 | 2 |
| 2024 | 2 |
| 2025 | 2 |
| 2026 | 2 |
| 2027 | 2 |
| 2028 | 3 |
| 2029 | 3 |
| 2030 | 3 |
| 2031 | 4 |
| 2032 | 4 |
| 2033 | 4 |
| 2034 | 4 |
| 2035 | 4 |
| 2036 | 4 |
| 2037 | 4 |
| 2038 | 4 |
| 2039 | 3 |
| 2040 | 3 |
| 2041 | 3 |
| 2042 | 3 |
| 2043 | 3 |
| 2044 | 3 |
| 2045 | 3 |
| 2046 | 3 |
| 2047 | 3 |
| 2048 | 3 |
| 2049 | 3 |
| 2050 | 3. |

(c) DEPOSITS.—Immediately upon receipt of proceeds from auctions conducted under subsection (b), the Administrator shall deposit all of the proceeds into the Climate Change Workforce Education Fund.

(d) USE OF FUNDS.—

(1) DEFINITION OF CLIMATE CHANGE EDUCATION.—In this subsection, the term ''climate change education'' means formal and informal learning at all levels about the relevant relationships between dynamic environmental and human systems exemplified by climate change.

(2) USE OF FUNDS.—Subject to the availability of appropriations, funds made available annually under this section shall be allocated to relevant Federal agencies to implement climate change education and related grantmaking programs, with a priority on funding programs authorized by Congress at the maximum authorization.

Strike the table on page 458, following line 5, and insert the following:

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 4.75 |
| 2013 | 4.75 |
| 2014 | 4.75 |
| 2015 | 5.50 |
| 2016 | 5.75 |
| 2017 | 5.75 |
| 2018 | 5.25 |
| 2019 | 5 |
| 2020 | 6 |
| 2021 | 7.5 |
| 2022 | 6.75 |
| 2023 | 7.75 |
| 2024 | 8.75 |
| 2025 | 8.75 |
| 2026 | 10.75 |
| 2027 | 10.75 |
| 2028 | 9.75 |
| 2029 | 10.75 |
| 2030 | 10.75 |
| 2031 | 15.75 |
| 2032 | 13.75 |
| 2033 | 13.75 |
| 2034 | 12.75 |
| 2035 | 12.75 |

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2036 | 12.75 |
| 2037 | 12.75 |
| 2038 | 12.75 |
| 2039 | 13.75 |
| 2040 | 13.75 |
| 2041 | 13.75 |
| 2042 | 13.75 |
| 2043 | 13.75 |
| 2044 | 13.75 |
| 2045 | 13.75 |
| 2046 | 13.75 |
| 2047 | 13.75 |
| 2048 | 13.75 |
| 2049 | 13.75 |
| 2050 | 13.75. |

**SA 4867.** Mr. KERRY (for himself, Ms. SNOWE, Mr. INOUYE, Mr. STEVENS, Mr. LAUTENBERG, Ms. CANTWELL, Mr. CARPER, Mr. NELSON of Florida, Mr. ROCKEFELLER, Ms. KLOBUCHAR, Mr. DURBIN, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4825 proposed by Mrs. BOXER (for herself, Mr. WARNER, and Mr. LIEBERMAN) to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**DIVISION —CLIMATE CHANGE RESEARCH**

**SEC. —000. TABLE OF CONTENTS**

The table of contents for this division is as follows:



**TITLE I—GLOBAL CHANGE RESEARCH IMPROVEMENT**

**SEC. —101. SHORT TITLE.**

This title may be cited as the ''Global Change Research Improvement Act of 2008''.

**SUBTITLE A—GLOBAL CHANGE RESEARCH**

**SEC. —111. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.**

Except as otherwise expressly provided, whenever in this subtitle 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 Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

**SEC. —112. CHANGES TO FINDINGS AND PURPOSE.**

Section 101 (15 U.S.C. 2931) is amended to read as follows:

**''SEC. 101. PURPOSE.**

''The purpose of this title is to provide for the continuation and coordination of a comprehensive and integrated United States observation, research, assessment, and outreach program which will assist the Nation and the world to better understand, assess, predict, mitigate, and adapt to the effects of human-induced and natural processes of global change.''.

**SEC. —113. CHANGES IN DEFINITIONS.**

(a) IN GENERAL.—Section 2 (15 U.S.C. 2921) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) CLIMATE CHANGE.—The term 'climate change' means any change in climate over time, whether due to natural variability or as a result of human activity.'';

(3) by striking ''Earth and Environmental Sciences'' in paragraph (2), as redesignated and inserting ''Global Change Research'';

(4) by striking ''Federal Coordinating Council on Science, Engineering, and Technology;'' in paragraph (3), as redesignated, and inserting ''National Science and Technology Council established by Executive Order 12881, November 23, 1993.'';

(5) by striking paragraph (4), as redesignated, and inserting the following:

''(4) GLOBAL CHANGE.—The term 'global change' means human-induced or natural changes in the global environment (including climate change and other phenomena affecting land productivity, oceans and coastal areas, freshwater resources, atmospheric chemistry, biodiversity, and ecological systems) that may alter the capacity of Earth to sustain life.''; and

(6) by striking ''National Global Change Research Plan'' in paragraph (5) and inserting ''National Global Change Research and Assessment Plan''.

(b) STYLISTIC CONFORMITY.—Section 2 (15 U.S.C. 2921) is further amended—

(1) by striking ''As used in this Act, the term—'' and inserting ''In this Act:'';

(2) by inserting after the designation of paragraphs (2), (3), (5), (6), and (7), as redesignated—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph; and

(B) ''The term''; and

(3) by striking the semicolon at the end of paragraphs (2), (3), and (5), as redesignated, and inserting a period; and

(4) by striking ''thereof; and'' in paragraph (6), as redesignated, and inserting ''thereof.''.

**SEC. —114. CHANGE IN COMMITTEE NAME AND STRUCTURE.**

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking ''EARTH AND ENVIRONMENTAL SCIENCES.'' in the section heading and inserting ''GLOBAL CHANGE RESEARCH.'';

(2) by striking ''Earth and Environmental Sciences.'' in subsection (a) and inserting ''Global Change Research.'';

(3) by striking ''under section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651)'' in subsection (a);

(4) by redesignating paragraphs (14) and (15) of subsection (b) as paragraphs (15) and (16), respectively, and inserting after paragraph (13) the following:

''(14) the National Institute of Standards and Technology of the Department of Commerce;'';

(5) by striking the last sentence of subsection (b) and inserting ''The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).'';

(6) by striking subsection (d) and inserting the following:

''(d) SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups to carry out its work as it sees fit.''; and

(7) by striking ''and'' after the semicolon in subsection (e)(6); and

(8) by redesignating paragraph (7) of subsection (e) as paragraph (8) and inserting after paragraph (6) the following:

''(7) work with appropriate Federal, State, regional, and local authorities to ensure that the Program is designed to produce information needed to develop policies to reduce the impacts of global change; and''.

**SEC. —115. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.**

Section 104 (15 U.S.C. 2934) is amended—

(1) by striking the section heading and inserting the following:

**''SEC. 104. NATIONAL GLOBAL CHANGE RESEARCH AND ASSESSMENT PLAN.''** ;

(2) by redesignating subsections (a) through (f) as subsections (b) through (g), respectively, and inserting before subsection (b), as redesignated, the following:

''(a) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2009 and submit the plan to the Congress within 1 year after the date of enactment of the Global Change Research Improvement Act of 2008. The strategic plan shall include a detailed plan for research, assessment, information management, public participation, outreach, and budget and shall be updated at least once every 5 years.'';

(3) by inserting ''and Assessment'' after ''Research'' in subsection (b), as redesignated;

(4) by striking ''research.'' in subsection (b), as redesignated, and inserting ''research and assessment.'';

(5) by striking ''this title,'' in subsection (b), as redesignated, and inserting ''the Global Change Research Improvement Act of 2008,'';

(6) by inserting ''short-term and long-term'' before ''goals'' in paragraph (1) of subsection (c), as redesignated;

(7) by striking ''usable information on which to base policy decisions related to'' in paragraph (1) of subsection (c), as redesignated, and inserting ''information relevant and readily usable by local, State, and Federal decisionmakers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, mitigating, and adapting to'';

(8) by inserting ''development of regional scenarios, assessment of model predictability, assessment of climate change impacts,'' after ''predictive modeling,'' in paragraph (2) of subsection (c), as redesignated;

(9) by striking ''priorities;'' in paragraph (2) of subsection (c), as redesignated, and inserting ''priorities and propose measures to address gaps and growing needs for these activities;''

(10) by striking paragraphs (6) and (7) of subsection (c), as redesignated, and inserting the following:

''(6) make recommendations for the coordination of the global change research and assessment activities of the United States with such activities of other Nations and international organizations, including—

''(A) a description of the extent and nature of international cooperative activities;

''(B) bilateral and multilateral efforts to provide worldwide access to scientific data and information, and proposals to improve such access and build capacity for its use; and

''(C) improving participation by developing Nations in international global change research and environmental data collection;

''(7) detail budget requirements for Federal global change research and assessment activities to be conducted under the Plan;

''(8) include a process for identifying information needed by appropriate Federal, State, regional, and local decisionmakers to develop policies to plan for and address projected impacts of global change;

''(9) identify and sustain the observing systems currently employed in collecting data relevant to global and regional climate change research and prioritize additional observation systems that may be needed to ensure adequate data collection and monitoring of global change;

''(10) identify existing capabilities and gaps in national, regional, and local climate prediction and scenario-based modeling capabilities for forecasting and projecting climate impacts at local and regional levels, and propose measures to address such gaps;

''(11) describe specific activities designed to facilitate outreach and data and information exchange with regional, State, and local governments and other user communities;

''(12) identify and describe ecosystems and geographic regions of the United States that are likely to experience similar impacts of global change or are likely to share similar vulnerabilities to global change; and

''(13) include such additional matter as the Committee deems appropriate.'';

(11) by striking paragraphs (1) and (2) of subsection (d), as redesignated, and inserting the following:

''(1) Global and regional research and measurements to understand the nature of and interaction among physical, chemical, biological, land use, and social processes responsible for changes in the Earth system on all relevant spatial and time scales.

''(2) Development of indicators, baseline databases, and ongoing monitoring to document global change, including changes in species distribution and behavior, changes in oceanic and atmospheric chemistry, extent of ice sheets, glaciers, and snow cover, shifts in water distribution and abundance, and changes in sea level.'';

(12) by adding at the end of subsection (d), as redesignated, the following:

''(6) Address emerging priorities for climate change science, such as ice sheet melt and movement, the relationship between climate change and hurricane and typhoon development, including intensity, track, and frequency, decreasing water levels in the Great Lakes, and droughts in the western and southeastern United States.

''(7) Methods for integrating information to provide predictive and other tools for planning and decisionmaking by governments, communities and the private sector.'';

(13) by striking ''and'' in paragraph (2) of subsection (e), as redesignated;

(14) by striking paragraph (3) of subsection (e), as redesignated, and inserting the following:

''(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policymakers, and other end-users, attempting to formulate effective decisions and strategies for mitigating and adapting to the effects of global change; and'';

(15) by adding at the end of subsection (e), as redesignated, the following:

''(4) establish a common assessment and modeling framework that may be used in both research and operations to project, predict, and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes.''; and

(16) by striking subsection (f), as redesignated, and inserting the following:

''(f) NATIONAL RESEARCH COUNCIL EVALUATION.—

''(1) REVIEW OF STRATEGIC PLAN.—The Chairman of the Council shall enter into an agreement with the National Research Council under which the National Research Council shall—

''(A) evaluate the scientific content of the Plan;

''(B) provide information and advice obtained from United States and international sources, and recommended priorities for future global and regional climate research and assessment; and

''(C) address such other studies on emerging priorities as the Chairman determines to be warranted.

''(2) ADDITIONAL NATIONAL RESEARCH COUNCIL STUDIES.—The Chairman shall execute an agreement with the National Research Council—

''(A) to examine existing research, potential risks (including adverse impacts to the marine environment), and the effectiveness of ocean iron fertilization or other coastal and ocean carbon sequestration technologies; and

''(B) to identify domestic and international regulatory mechanisms and regulatory gaps for controlling the deployment of such technologies and provide recommendations for addressing such regulatory gaps.''.

**SEC. —116. INTEGRATED PROGRAM OFFICE.**

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

''(a) GLOBAL CHANGE RESEARCH COORDINATION OFFICE.—

''(1) IN GENERAL.—The President shall establish a Global Change Research Coordination Office. The Office shall have a director, who shall be a senior scientist or other qualified professional with research expertise in climate change science, as well as experience in policymaking, planning, or resource management, and a fulltime staff. The Office shall—

''(A) manage, in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

''(B) ensure that the activities and programs of each Federal agency or department participating in the Program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

''(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the strategic and implementation plans for the Program;

''(D) review, solicit, identify, and arrange funding for partnership projects that address critical research objectives or operational goals of the Program, including projects that would fill research gaps identified by the Program, and for which project resources are shared among at least 2 agencies participating in the Program;

''(E) review and provide recommendations, in conjunction with the Committee, on all annual appropriations requests from Federal agencies or departments participating in the Program;

''(F) provide technical and administrative support to the Committee;

''(G) serve as a point of contact on Federal climate change activities for government organizations, academia, industry, professional societies, State climate change programs, interested citizen groups, and others to exchange technical and programmatic information; and

''(H) conduct public outreach, including dissemination of findings and recommendations of the Committee, as appropriate.

''(2) FUNDING.—The Office may be funded through interagency funding in accordance with section 631 of the Treasury and General Government Appropriations Act, 2003 (Pub. L. 108–7; 117 Stat. 471).

''(3) REPORT.—Within 90 days after the date of enactment of the Global Change Research Improvement Act of 2008, the Director of the Office of Science and Technology Policy shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology on the funding of the Office. The report shall include—

''(A) the amount of funding required to adequately fund the Office; and

''(B) the adequacy of existing mechanisms to fund the Office.''; and

(3) by striking ''Committee.'' in paragraph (2) of subsection (c), as redesignated, and inserting ''Committee and the Global Change Research Coordination Office.''.

**SEC. —117. BUDGET COORDINATION.**

Section 105 (15 U.S.C. 2935), as amended by section —116 of this division, is further amended by striking subsection (d), as redesignated, and inserting the following:

''(d) CONSIDERATION IN PRESIDENT'S BUDGET.—

''(1) IN GENERAL.—Before each annual budget submitted to the Congress under section 1105 of title 31, United States Code, the President shall, in a timely fashion, provide an opportunity to the Committee and the Global Change Research Coordination Office to review and comment on the budget estimate of each agency and department involved in global change research in the context of the Plan. The Committee and the Global Change Research Coordination Office shall transmit a report containing the results of their reviews to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology no later than the date on which the President submits the annual budget to the Congress under section 1105 of title 31, United States Code.

''(2) PROGRAM ITEMS.—The President shall submit, at the time of the annual budget request to Congress, an integrated budget plan that would consolidate and highlight Program priorities and include a description of those items in each agency's annual budget which are elements of the Program.''.

**SEC. —118. RESEARCH GRANTS.**

Section 105 (15 U.S.C. 2935), as amended by sections —116 and —117 of this division, is further amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following:

''(b) RESEARCH GRANTS.—

''(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being adequately addressed by Federal agencies. In the list, the Committee shall identify the appropriate agency to lead the such areas of research funded under paragraph (3)(A).

''(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

''(3) FUNDING THROUGH NSF.—

''(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

''(B) AUTHORIZATION.—For fiscal year 2009 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $30,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.''.

**SEC. —119. EVALUATION OF INFORMATION.**

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking ''**SCIENTIFIC**'' in the section heading;

(2) by striking ''On a periodic basis (not less frequently than every 4 years), the Council, through the Committee, shall prepare and submit to the President and the Congress an assessment'' and inserting ''On a periodic basis (not less frequently than every 4 years), the President shall submit to Congress a single, integrated, comprehensive assessment'';

(3) by striking ''and'' after the semicolon in paragraph (2); and

(4) by striking ''years.'' in paragraph (3) and inserting ''years; and''; and

(5) by adding at the end the following:

''(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decision makers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.''.

**SEC. —120. REPEAL OF OBSOLETE PROVISION.**

Section 108(c) (15 U.S.C. 2938(c)) is amended by striking ''stratospheric ozone depletion or''.

**SEC. —121. SCIENTIFIC COMMUNICATIONS.**

The President shall establish guidelines and implement a plan that requires the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation, and other Federal agencies with scientific research programs to adopt policies that ensure the integrity of scientific communications. Such policies shall include provisions regarding the approval of final text and communications, and enable scientists to disseminate research results and freely communicate with the Congress, the media, and colleagues in a timely fashion.

**SEC. —122. AGING WORKFORCE ISSUES PROGRAM.**

The Administrator of the National Oceanic and Atmospheric Administration shall implement a program to address aging work force issues in climate science, global change, and other focuses of NOAA research that—

(1) documents technical and management experiences before senior employees leave the Administration, including—

(A) documenting lessons learned;

(B) briefing organizations;

(C) providing opportunities for archiving lessons in a database; and

(D) providing opportunities for near-term retirees to transition out early from their primary assignment in order to document their career lessons learned and brief new employees prior to their separation from the Administration;

(2) provides incentives for retirees to return and teach new employees about their career lessons and experiences; and

(3) provides for the development of an award to recognize and reward outstanding senior employees for their contributions to knowledge sharing.

**SEC. —123. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for the purpose of carrying out this title such sums as may be necessary for fiscal years 2009 through 2013. Of the amounts appropriated for that fiscal year period—

(1) $4,000,000 shall be made available to the Global Change Research Coordination Office through the Office of Science and Technology Policy for each of such fiscal years; and

(2) such sums as may be necessary shall be made available to—

(A) the National Oceanic and Atmospheric Administration for each of such fiscal years;

(B) the National Science Foundation for each of such fiscal years;

(C) the National Aeronautics and Space Administration for each of such fiscal years; and

(D) other Federal agencies participating in the Program, to the extent funds remain available after the application of paragraph (1) and subparagraphs (A), (B), and (C) of this paragraph, for each of such fiscal years.

## SUBTITLE B—NATIONAL CLIMATE SERVICE

**SEC. —131. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.**

Except as otherwise expressly provided, whenever in this subtitle 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 National Climate Program Act (15 U.S.C. 2901 et seq.).

**SEC. —132. SHORT TITLE; TABLE OF CONTENTS.**

Section 1 of the Act (15 U.S.C. 2901 note) is amended to read as follows:

**''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

''(a) SHORT TITLE.—This Act may be cited as the 'National Climate Service Act of 2008'.

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



**SEC. —133. PURPOSE.**

Section 3 (15 U.S.C. 2902) is amended by striking ''man-induced climate processes and their implications.'' and inserting ''human-induced climate processes and their implications and to establish a National Climate Service that will advance the national interest and associated international concerns in understanding, forecasting, responding, adapting to, and mitigating the impacts of natural and human-induced climate change and climate variability.''.

**SEC. —134. DEFINITIONS.**

Section 4 (15 U.S.C. 2903), as amended by section —103 of this division, is amended to read as follows:

**''SEC. 4. DEFINITIONS.**

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

''(2) ADVISORY COUNCIL.—The term 'Advisory Council' refers to the Climate Services Advisory Council.

''(3) CLIMATE CHANGE.—The term 'climate change' means any change in climate over time, whether due to natural variability or as a result of human activity.

''(4) COASTAL STATE.—The term 'coastal state' has the meaning given that term by section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4)).

''(5) DIRECTOR.—The term 'Director' means the Director of the National Oceanic and Atmospheric Administration's National Climate Service.

''(6) GLOBAL CHANGE RESEARCH PROGRAM.—The term 'Global Change Research Program' means the United States Global Change Research Program established under section 103 of the Global Change Research Act of 1990 (15 U.S.C. 2933).

''(7) PROGRAM.—The term 'Program' means the National Climate Program.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

''(9) SERVICE.—The term 'Service' means the National Oceanic and Atmospheric Administration's National Climate Service.''.

**SEC. —135. NATIONAL CLIMATE SERVICE.**

The Act is amended by striking sections 7 and 8 (15 U.S.C. 2906 and 2907, respectively) and inserting after section 5 the following:

**''SEC. 6. NATIONAL CLIMATE SERVICE.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish within the National Oceanic and Atmospheric Administration a National Climate Service not later than a year after the date of the enactment of the Global Change Research Improvement Act of 2008. The Service shall include a national center and a network of regional and local facilities for operational climate monitoring and prediction.

''(2) DUTIES.—The Service shall produce and deliver authoritative, timely and usable information about climate change, climate variability, trends, and impacts on local, State, regional, national, and global scales.

''(3) SPECIFIC SERVICES.—The Service, at a minimum, shall—

''(A) provide comprehensive and authoritative information about the state of the climate and its effects, through observations, monitoring, data, information, and products that accurately reflect climate trends and conditions;

''(B) provide predictions and projections on the future state of the climate in support of adaptation, preparedness, attribution, and mitigation;

''(C) utilize appropriate research from the United States Global Change Research Program activities and conduct focused research, as needed, to enhance understanding, information and predictions of the current and future state of the climate and its impacts that is relevant to policy, planning, and decision making;

''(D) utilize assessments from the Global Change Research Program activities and conduct focused assessments as needed to enhance understanding of the impacts of climate change and climate variability;

''(E) assess and strengthen delivery mechanisms for providing climate information to end users;

''(F) communicate climate data, conditions, predictions, projections, indicators, and risks on an ongoing basis to decisionmakers and policymakers, the private sector, and to the public;

''(G) coordinate and collaborate on climate change, climate variability, and impacts activities with municipal, state, regional, national and international agencies and organizations, as appropriate;

''(H) support the Department of State and international agencies and organizations, as well as domestic agencies and organizations, involved in assessing and responding to climate change and climate variability;

''(I) establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, ocean and coastal observing systems, and modeling capabilities to monitor, measure, and verify greenhouse gas levels, dates, and emissions throughout the global oceans and atmosphere; and

''(J) issue an annual report that identifies greenhouse emission and trends on a local, regional, and national level and identifies emissions or reductions attributable to individual or multiple sources covered by the program established under subparagraph (I).

''(b) ACTION PLAN.—Within 1 year after the date of enactment of the Global Change Research Improvement Act of 2008, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology a plan of action for the National Climate Service. The plan, at a minimum, shall—

''(1) provide for the interpretation and communication of climate data, conditions, predictions, projections, and risks on an ongoing basis to decision and policy makers at the local, regional, and national levels;

''(2) design, deploy, and operate an adequate national climate observing system that closes gaps in existing coverage;

''(3) support infrastructure and ability to archive and quality ensure climate data, and make federally-funded model simulations and other relevant climate information available from the Global Change Research Program activities and other sources (and related data from paleoclimate studies).

''(4) include a program for long-term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and model simulations;

''(5) establish—

''(A) a national coordinated computing strategy, including establishing a new, or supplementing support for existing, national climate computing capability to provide dedicated computing capacity for modeling and forecasting, scenarios, and planning resources, and a regular schedule of projections on long- and short-term time horizons over a range of scales, including regional scales; and

''(B) a mechanism to allow access to such capacity by the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, and National Science Foundation sponsored researchers;

''(6) improve integrated modeling, assessment, and predictive capabilities needed to document and predict climate changes and impacts, and to guide national, regional, and local planning and decision making;

''(7) provide a system of regular consultation and coordination with Federal agencies, States, Indian tribes, non-governmental organizations, the private sector and the academic community to ensure—

''(A) that the information requirements of these groups are well incorporated; and

''(B) timely and full sharing, dissemination and use of climate information and services in risk preparedness, planning, decision making, and early warning and natural resources management, both domestically and internationally;

''(8) develop standards, evaluation criteria and performance objectives to ensure that the Service meets the evolving information needs of the public, policy makers and decision makers in the face of a changing climate;

''(9) develop funding estimates to implement the plan; and

''(10) support competitive research programs that will improve elements of the Service described in this Act through the Climate Program Office within the Service headquarter function.

''(c) COORDINATION WITH THE USGCRP.—The Service shall utilize appropriate research from Global Change Research Program activities to enhance understanding, information and predictions of the current and future state of the climate and its impacts that is relevant to policy and decisions. The Service shall provide appropriate information about the current and future state of the climate and its impacts that are useful for research purposes to relevant Global Change Research Program activities. The Director of the Service will serve as a liaison to the Global Change Research Program and a member of the Global Change Research Program should serve on the Advisory Council.

''(d) DIRECTOR.—The Administrator shall appoint a director of the Service, who shall oversee all processes associated with managing the organization and executing the functions and actions described in this Act. The Director will serve as a liaison to the Global Change Research Program to ensure the transition of research into services and to provide services to meet the needs of research.

''(e) NATIONAL CLIMATE SERVICE ADVISORY COUNCIL.—The Administrator shall, in consultation with the chairmen and ranking minority party members of the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology, and the National Academy of Sciences, appoint the membership of a National Climate Service Advisory Council composed of 15 members, with members serving 4-year terms and include a diverse membership from appropriate Federal, State and local government, universities, non-government and private sectors who use climate information and cover a range of sectors, such as water, drought, fisheries, coasts, agriculture, health, natural resources, transportation, and insurance. The Council shall advise the Director of the Service of key priorities in climate-related issues that require the attention of the Service. The Council shall be responsible for ensuring coordination across regional and national concerns and the assessment of evolving information needs.

**''SEC. 7. CONTRACT AND GRANT AUTHORITY.**

''Functions vested in any Federal officer or agency by this Act or under the Program may be exercised through the facilities and personnel of the agency involved or, to the extent provided or approved in advance in appropriation Acts, by other persons or entities under contracts or grant arrangements entered into by such officer or agency.

**''SEC. 8. ANNUAL REPORT.**

''The Secretary shall prepare and submit to the President and the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology, as part of the annual report to meet the requirements of section 102(e)(7) of the Global Change Research Act of 1990 (15 U.S.C. 2932(e)(8)), a report on the activities conducted pursuant to this Act during the preceding fiscal year, including—

''(1) a summary of the achievements of the National Climate Service during the previous fiscal year; and

''(2) an analysis of the progress made toward achieving the goals and objectives of the Service.''.

**SEC. —136. REAUTHORIZATION.**

Subsection (a) of section 11 (15 U.S.C. 2908), as redesignated and amended by section —105 and —107 of this division, respectively, is amended to read as follows:

''(a) NATIONAL CLIMATE SERVICE.—There are authorized to be appropriated to the Secretary to carry out sections 6, 7, and 8 of this Act—

''(1) $300,000,000 for fiscal year 2009;

''(2) $350,000,000 for fiscal year 2010;

''(3) $400,000,000 for fiscal year 2011;

''(4) $450,000,000 for fiscal year 2012; and

''(5) $500,000,000 for fiscal year 2013.''.

## SUBTITLE C—TECHNOLOGY ASSESSMENT

**SEC. —141. NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.**

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following:

### ''TITLE VII—NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

**''SEC. 701. ESTABLISHMENT.**

''There is hereby created a Science and Technology Assessment Service which shall be within and responsible to the legislative branch of the Government.

**"SEC. 702. COMPOSITION.**

''The Service shall consist of a Science and Technology Board which shall formulate and promulgate the policies of the Service, and a Director who shall carry out such policies and administer the operations of the Service.

**"SEC. 703. FUNCTIONS AND DUTIES.**

''The Service shall coordinate and develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. In developing such technical assessments for Congress, the Service shall utilize, to the extent practicable, experts selected in coordination with the National Research Council.

**"SEC. 704. INITIATION OF ACTIVITIES.**

''Science and technology assessment activities undertaken by the Service may be initiated upon the request of—

''(1) the Chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

''(2) the Board; or

''(3) the Director.

**"SEC. 705. ADMINISTRATION AND SUPPORT.**

''The Director of the Science and Technology Assessment Service shall be appointed by the Board and shall serve for a term of 6 years unless sooner removed by the Board. The Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Director shall contract for administrative support from the Library of Congress.

**"SEC. 706. AUTHORITY.**

''The Service shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—

''(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

''(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 51);

''(3) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Service and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation; and

''(4) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Service.

**"SEC. 707. BOARD.**

''The Board shall consist of 13 members as follows—

''(1) 6 Members of the Senate, appointed by the President pro tempore of the Senate, 3 from the majority party and 3 from the minority party;

''(2) 6 Members of the House of Representatives appointed by the Speaker of the House of Representatives, 3 from the majority party and 3 from the minority party; and

''(3) the Director, who shall not be a voting member.

**"SEC. 708. REPORT TO CONGRESS.**

''The Service shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. The annual report shall be submitted not later than March 15 of each year.

**"SEC. 709. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to the Service such sums as are necessary to fulfill the requirements of this title.''.

## SUBTITLE D—CLIMATE CHANGE TECHNOLOGY

**SEC. —151. NIST GREENHOUSE GAS FUNCTIONS.**

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and''.

**SEC. —152. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.**

The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from sequestration, agriculture, forestry, and other land use practices;

(2) noncarbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

**SEC. —153. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS.**

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

**"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.**

''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases.

''(b) RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

''(B) to develop and provide standards, measurements, and innovative technologies for reducing greenhouse gas emissions in existing industries;

''(C) to develop and provide standards, measurements, measurement tools, and calibrations that will enhance and promote remote sensing technologies;

''(D) to assist in establishing a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

''(E) to develop and provide standards, measurements, measurement tools, calibrations, data, models, and other innovative technologies to support the validation and accreditation of a greenhouse gas trading industry;

''(F) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases, including the development of measurement tools and standards to validate and accredit a carbon offset industry; and

''(G) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouse gases.

''(c) NATIONAL MEASUREMENT LABORATORIES.—

''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

''(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low- or no-emission technologies into building designs.

''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building subsystems and 'smart buildings', and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.

**SEC. —154. TECHNOLOGY DEVELOPMENT AND DIFFUSION.**

The Director of the National Institute of Standards and Technology, through the

Manufacturing Extension Partnership Program, may develop a program to support the implementation of new ''green'' manufacturing technologies and techniques by the more than 380,000 small business manufacturers.

**SEC. —155. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out this title and section 17 of the National Institute of Standards and Technology Act, as added by section —153 of this title, $15,000,000 for each of fiscal years 2009 through 2013.

## SUBTITLE E—ABRUPT CLIMATE CHANGE

**SEC. —161. ABRUPT CLIMATE CHANGE RESEARCH PROGRAM.**

The Secretary of Commerce shall establish within the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration, and shall carry out, a program of scientific research on abrupt climate change.

**SEC. —162. PURPOSES OF PROGRAM.**

The purposes of the program are—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order to sufficiently identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate such mechanisms into advanced geophysical models of climate change; and

(4) to test the output of such models against an improved global array of records of past abrupt climate changes.

**SEC. —163. ABRUPT CLIMATE CHANGE DEFINED.**

In this title, the term ''abrupt climate change'' means a change in the climate that occurs so rapidly or unexpectedly that human or natural systems have difficulty adapting to the climate as changed.

**SEC. —164. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Commerce for each of fiscal years 2009 through 2013, to remain available until expended, such sums as are necessary, not to exceed $10,000,000, to carry out the research program required by section —161 of this title.

## TITLE II—CLIMATE CHANGE ADAPTATION

**SEC. —201. SHORT TITLE.**

This title may be cited as the ''Climate Change Adaptation Act''.

**SEC. —202. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

**SEC. —203. DEFINITIONS.**

Section 4 (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) COASTAL STATE.—The term 'coastal state' has the meaning given that term by section 304((4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4)).''.

**SEC. —204. NATIONAL CLIMATE PROGRAM ELEMENTS.**

Section 5 (15 U.S.C. 2904) is amended to read as follows:

**''SEC. 5. NATIONAL CLIMATE PROGRAM.**

''(a) ESTABLISHMENT.—There is hereby established a National Climate Program.

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—The Program shall include—

''(1) a strategic planning process to address the impacts of climate change within the United States; and

''(2) a National Climate Service to be established within the National Oceanic and Atmospheric Administration.

''(c) DUTIES.—The President shall—

''(1) develop the 5-year plans described in section 9;

''(2) define the roles in the Program of Federal officers, departments, and agencies, including the Departments of Agriculture, Commerce, Defense, Energy, Interior, State, and Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Office of Science and Technology Policy; and

''(3) provide for Program coordination.''.

**SEC. —205. NATIONAL CLIMATE STRATEGY.**

The Act is amended—

(1) by redesignating section 9 as section 11; and

(2) by inserting after section 8 the following:

**''SEC. 9. NATIONAL STRATEGIC PLAN FOR CLIMATE CHANGE ADAPTATION.**

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Climate Change Adaptation Act, the President shall provide to the Congress a 5-year national strategic plan to address the impacts of climate change within the United States. The President shall provide a mechanism for consulting with States and local governments, the private sector, universities, and other nongovernmental entities in developing the plan. The plan shall be updated at least every 5 years.

''(b) CONTENTS OF PLAN.—The plan shall, at a minimum—

''(1) identify existing Federal requirements, protocols, and capabilities for addressing climate change impacts on federally managed resources and with respect to Federal actions and policies;

''(2) identify measures to improve such capabilities and the utilization of such capabilities;

''(3) include guidance for integrating the consideration of the impacts of climate change on Federally-managed resources, and in Federal actions and policies, consistent with existing authorities;

''(4) address vulnerabilities and priorities identified through the assessments carried out under the Global Change Research Act of 1990 and this Act;

''(5) establish a mechanism for the exchange of information related to addressing the impacts of climate change with, and provide technical assistance to, State and local governments and nongovernmental entities;

''(6) recommend specific partnerships with State and local governments and nongovernmental entities to support and coordinate implementation of the plan;

''(7) include implementation and funding strategies for short-term and long-term actions that may be taken at the national, regional, State, and local level, taking into account existing planning and other requirements;

''(8) establish a process to develop more detailed agency and department-specific plans;

''(9) identify opportunities to utilize observations from both ground-based and remote sensing platforms and other geospatial technologies to improve planning for adaptation to climate change impacts;

''(10) identify existing legal authorities and additional authorities necessary to implement the plan;

''(11) identify existing high resolution elevation data and bathymetric data and develop a prioritized plan for filling existing gaps; and

''(12) include appropriate steps for partnerships with international organizations and foreign governments on international activities to address climate change impacts, including the sharing of technical assistance and capacity-building expertise..

''(c) INTERIM ACTIVITIES.—Nothing in this section shall be construed to prevent any Federal agency or department from taking climate change impacts into account, consistent with its existing authorities, before the requirements of this section are implemented. Federal agencies are encouraged to take climate change into account under all existing relevant authorities to the maximum extent practicable and consistent with those authorities.

''(d) COORDINATION.—The President shall ensure that the mechanism to provide information related to addressing the impacts of climate change to State and local governments and nongovernmental entities is appropriately coordinated or integrated with existing programs that provide similar information on climate change predictions.

''(e) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this section supersedes any Federal authority in effect on the date of enactment of the Climate Change Adaptation Act or creates any new legal right of action.

**''SEC. 10. OCEAN AND COASTAL VULNERABILITY AND ADAPTATION.**

''(a) COASTAL AND OCEAN VULNERABILITY.—

''(1) IN GENERAL.—Within 2 years after the date of enactment of the Climate Change Adaptation Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, coordinate and support regional assessments of the vulnerability of coastal and ocean areas and resources, including living marine resources, to hazards associated with climate change, and ocean acidification including—

''(A) variations in sea level including long-term sea level rise;

''(B) fluctuation of Great Lakes water levels;

''(C) increases in severe weather events;

''(D) natural hazards and events including storm surge, precipitation, flooding, inundation, drought, and fires;

''(E) changes in sea ice;

''(F) changes in ocean currents impacting global heat transfer;

''(G) increased siltation due to coastal erosion;

''(H) shifts in the hydrological cycle; and

''(I) alteration of ecological communities, including at the ecosystem or watershed levels.

''(2) FACTORS.—In preparing the regional coastal assessments, the Secretary shall take into account the information and assessments being developed pursuant to the Global Change Research Program. The regional assessments shall include an evaluation of—

''(A) observed and projected physical, biological, and ecological impacts, such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, coral reef bleaching, impacts on food web distribution, impacts on marine habitat and ecosystem productivity, species migration, species abundance and distribution, and changes in marine pathogens and diseases;

''(B) social and cultural impacts associated with threats to and potential losses of housing, communities, recreational opportunities, aesthetic values, and infrastructure; and

''(C) economic impacts on local, State, and regional economies, including the impact on abundance or distribution of economically important living marine resources.

''(3) UPDATES.—The Secretary shall update such assessments at least once every 5 years.

''(b) COASTAL AND OCEAN ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of the Climate Change Adaptation Act, submit to the Congress an agency-specific plan under section 9(b). The plan shall include a national coastal and ocean adaptation plan, composed of individual regional adaptation plans that recommend targets and strategies to address coastal and ocean impacts associated with climate change, ocean acidification, and sea level rise. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels and shall take into account the results of the regional assessments to be conducted under subsection (a), the work of the Global Change Research Program, and recommendations of the National Science Board in its January 12, 2007, report entitled *Hurricane Warning: The Critical Need for a National Hurricane Research Initiative* and other relevant studies, and not duplicate existing Federal and State hazard planning requirements. The Plan shall include both short- and long-term adaptation strategies and shall include, at a minimum, recommendations regarding—

''(1) Federal flood insurance program modifications;

''(2) areas that have been identified as high risk through mapping and assessment;

''(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, infrastructure planning, and zoning;

''(4) land and property owner education;

''(5) economic planning for small communities dependent upon affected coastal and ocean resources, including fisheries;

''(6) coastal hazards protocols to reduce the risk of damage to lives and property, and reduce threats to public health and a process for evaluating the implementation of such protocols;

''(7) strategies to address impacts on critical biological and ecological processes, giving a priority to the most vulnerable natural resources and communities;

''(8) proposals to integrate measures into the actions and policies of the National Oceanic and Atmospheric Administration and other Federal agencies, as appropriate;

''(9) a plan for additional observations, research, modeling, assessment and information products, environmental data stewardship, and development of technologies and capabilities to address such impacts;

''(10) a plan for data archive and access, and processes for sharing data and information for addressing such impacts;

''(11) plans to pursue bilateral and multilateral agreements necessary to effectively address such impacts;

''(12) partnerships with States and nongovernmental organizations;

''(13) methods to mitigate the impacts identified, including habitat protection and restoration measures; and

''(14) funding requirements and mechanisms.

''(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Oceanic and Atmospheric Administration and in coordination with other Federal agencies with existing authorities concerning hazard mitigation planning, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional coastal and ocean assessments and the coastal and ocean adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.''.

**SEC. —206. COASTAL AND OCEAN ADAPTATION GRANTS.**

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended by added at the end the following:

**''SEC. 320. CLIMATE CHANGE ADAPTATION PLANS.**

''(a) GRANTS.—The Secretary shall provide grants of financial assistance to coastal states with federally approved coastal zone management programs to develop and begin implementing coastal and ocean adaptation programs.

''(b) ALLOCATION OF FUNDS.—The Secretary shall distribute grant funds under subsection (a) among coastal States in accordance with the formula established under section 306(c) of this Act, adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

''(c) PLAN CONTENT.—In order to receive financial assistance under this section, a plan must be approved by the Secretary, and be consistent with and further the goals of the coastal and ocean adaptation plan to be developed pursuant to section 10 of the National Climate Program Act, and be consistent with such State's coastal management program.

''(d) STATE HAZARD MITIGITATION PLANS.—Plans developed by States pursuant to this section shall be consistent with State hazard mitigation plans developed under State or Federal law.''.

**SEC. —207. AUTHORIZATION OF APPROPRIATIONS.**

Section 11 (15 U.S.C. 2908), as redesignated by section —105 of this division, is amended—

(1) by inserting ''(a) NATIONAL CLIMATE SERVICE.—'' before ''There are authorized''; and

(2) by adding at the end thereof the following:

''(b) NATIONAL STRATEGY.—In addition to any other funds otherwise authorized to be appropriated, there are authorized to be appropriated for each of fiscal years 2009 through 2013 $25,000,000 to carry out section 9.

''(c) COASTAL AND OCEAN ASSESSMENTS.—In addition to any other funds otherwise authorized to be appropriated, there are authorized to be appropriated to the Secretary $75,000,000 for each of fiscal years 2009 through 2013 to carry out section 10(a).

''(d) COASTAL AND OCEAN ADAPTATION PLAN.—In addition to any other funds otherwise authorized to be appropriated, there are authorized to be appropriated for each of fiscal years 2009 through 2013 $150,000,000, of which 75 percent shall be for State plans.''.

## TITLE III—OCEAN ACIDIFICATION

**SEC —301. SHORT TITLE.**

This title may be cited as the ''Federal Ocean Acidification Research And Monitoring Act of 2008'' or the ''FOARAM Act''.

**SEC. —302. PURPOSES.**

The purposes of this title are to provide for—

(1) development and coordination of a comprehensive interagency plan to monitor and conduct research on the processes and consequences of ocean acidification on marine organisms and ecosystems and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration;

(2) assessment and consideration of regional and national ecosystem and socio-economic impacts of increased ocean acidification, and integration into marine resource decisions; and

(3) research on adaptation strategies and techniques for effectively conserving marine ecosystems as they cope with increased ocean acidification.

**SEC. —303. INTERAGENCY COMMITTEE ON OCEAN ACIDIFICATION.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The President shall establish or designate an interagency committee on ocean acidification.

(2) MEMBERSHIP.—The committee shall be comprised of senior representatives from the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautics and Space Administration, the United States Geological Survey, the United States Fish and Wildlife Service, and such other Federal agencies as the President considers appropriate.

(3) CHAIRMAN.—The committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full committee to address issues that may require more specialized expertise than is provided by existing subcommittees.

(b) PURPOSE.—The committee shall oversee the planning, establishment, and coordinated implementation of a plan designed to improve the understanding of the role of increased ocean acidification on marine ecosystems.

(c) REPORTS TO CONGRESS.—

(1) STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.—The committee shall submit the strategic research and implementation plan established under section —304 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources.

(2) TRIENNIAL REPORT.—Not later than 2 years after the date of the enactment of this Act and every 3 years thereafter, the committee shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources that includes—

(A) a summary of federally funded ocean acidification research and monitoring activities, including the budget for each of these activities; and

(B) an analysis of the progress made toward achieving the goals and priorities for the interagency research plan developed by the committee under section —304 and recommendations for future activities, including policy recommendations developed as part of this research.

**SEC. —304. STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.**

(a) IN GENERAL.—Within 18 months after the date of enactment of this Act, the committee shall develop a strategic research and implementation plan for coordinated Federal activities. In developing the plan, the committee shall consider reports and studies conducted by Federal agencies and departments, the National Research Council, the Ocean Research and Resources Advisory Panel, the Joint Subcommittee on Ocean, Science, and Technology of the National Science and Technology Council, the Joint Ocean Commission Initiative, and other expert scientific bodies and coordinate with

other relevant Federal interagency committees.

(b) SCOPE.—The plan shall—

(1) provide for interdisciplinary research among the ocean sciences, and coordinated research and activities to improve understanding of ocean acidification that will affect marine ecosystems and to assess the potential and realized socio-economic impact of ocean acidification, including—

(A) effects of atmospheric carbon dioxide on ocean chemistry;

(B) biological impacts of ocean acidification, including research on—

(i) species, including commercially and recreationally important species, protected, endangered, or threatened species, and ecologically important calcifiers that lie at the base of the food chain; and

(ii) physiological changes in response to ocean acidification;

(C) identification and assessment of ecosystems most at risk from projected changes in ocean chemistry, including—

(i) coastal ecosystems, including Great Lakes ecosystems;

(ii) coral reef ecosystems, including deep sea coral ecosystems; and

(iii) polar and subpolar ecosystems;

(D) modeling the changes in ocean chemistry driven by the increases in ocean carbon levels, including ecosystem forecasting;

(E) identifying feedback mechanisms resulting from the ocean chemistry changes such as the decrease in calcification rates in organisms;

(F) socio-economic impacts of ocean acidification, including commercially and recreationally important fisheries and coral reef communities; and

(G) identifying interactions between ocean acidification and other oceanic changes including those associated with climate change;

(2) establish, for the 10-year period beginning in the year it is submitted, goals, priorities, and guidelines for coordinated activities that will—

(A) most effectively advance scientific understanding of the characteristics and impacts of ocean acidification;

(B) provide forecasts of changes in ocean acidification and the consequent impacts on marine ecosystems; and

(C) provide a basis for policy decisions to reduce and manage ocean acidification and its environmental impacts;

(3) provide an estimate of Federal funding requirements for research and monitoring activities; and

(4) identify and strengthen relevant programs and activities of the Federal agencies and departments that would contribute to accomplishing the goals of the plan and prevent unnecessary duplication of efforts, including making recommendations for the use of observing systems and technological research and development.

(c) CONSULTATION.—In developing the plan, the committee may consult with the academic community, States, industry, environmental groups, and other relevant stakeholders.

**SEC. —305. NOAA OCEAN ACIDIFICATION PROGRAM.**

(a) IN GENERAL.—The Secretary shall establish and maintain an ocean acidification program within the National Oceanic and Atmospheric Administration to implement activities consistent with the strategic research and implementation plan developed by the committee under section —304 that—

(1) includes—

(A) interdisciplinary research among the ocean and atmospheric sciences, and coordinated research and activities to improve understanding of ocean acidification;

(B) the establishment of a long-term monitoring program of ocean acidification utilizing existing global ocean observing assets and adding instrumentation and sampling stations as appropriate to the aims of the research program;

(C) research to identify and develop adaptation strategies and techniques for effectively conserving marine ecosystems as they cope with increased ocean acidification;

(D) educational opportunities that encourage an interdisciplinary and international approach to exploring the impacts of ocean acidification;

(E) national public outreach activities to improve the understanding of ocean acidification and its impacts on marine resources; and

(F) coordination of ocean acidification research and monitoring with other appropriate international ocean science bodies such as the International Oceanographic Commission, the International Council for the Exploration of the Sea, the North Pacific and others;

(2) provides grants for critical research projects that explore the effects of ocean acidification on ecosystems and the socio-economic impacts of increased ocean acidification that are relevant to the goals and priorities of the strategic research plan; and

(3) incorporates a competitive merit-based grant process that may be conducted jointly with other participating agencies or under the National Oceanographic Partnership Program under section 7901 of title 10, United States Code.

(b) ADDITIONAL AUTHORITY.—In conducting the Program, the Secretary may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this title on such terms as the Secretary deems appropriate.

**SEC. —306. DEFINITIONS.**

In this title:

(1) COMMITTEE.—The term ''committee'' means the interagency committee on ocean acidification established or designated by the President under section —303(a)(1).

(2) OCEAN ACIDIFICATION.—The term ''ocean acidification'' means the change in ocean chemistry that is driven by the increase in ocean carbon levels, and the uptake of chemical inputs from the atmosphere, including anthropogenic carbon dioxide.

(3) PROGRAM.—The term ''Program'' means the National Oceanic and Atmospheric Administration Ocean Acidification Program established under section —305.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

**SEC. —307. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the National Oceanic and Atmospheric Administration to carry out this title—

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

(2) $15,000,000 for fiscal year 2010;

(3) $20,000,000 for fiscal year 2011;

(4) $25,000,000 for fiscal year 2012; and

(5) $30,000,000 for fiscal year 2013.

(b) ALLOCATION.—Of the amounts appropriated to the National Oceanic and Atmospheric Administration under subsection (a) for each fiscal year—

(1) 40 percent shall be available to, and retained by, the National Oceanic and Atmospheric Administration for use in carrying out its responsibilities under this title; and

(2) 60 percent shall be transferred by the National Oceanic and Atmospheric Administration in equal amounts to—

(A) the National Science Foundation;

(B) the National Aeronautics and Space Administration;

(C) the United States Fish and Wildlife Service; and

(D) the United States Geological Survey.

(3) Of the amounts made available to carry out this title for any fiscal year, the Secretary, and other departments and agencies to which amounts are transferred under paragraph (2), shall allocate at least 50 percent for competitive grants.

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**SA 4868.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 284, line 7, strike ''States as a reward'' and insert ''States, and the Department of Housing and Urban Development for use in carrying out the HOME Investments Partnership Program established under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.),''.

On page 285, between lines 3 and 4, insert the following:

(c) ALLOCATION TO HUD.—The Administrator shall transfer 20 percent of emission allowances established pursuant to section 801 to the Secretary of Housing and Urban Development for use in carrying out the HOME Investment Partnership Program established under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et. seq.), for each of calendar years 2012 through 2050, for activities that directly increase the energy efficiency in units assisted with funds made available under this title, including increased insulation, air sealing, high performance windows, duct sealing, high-efficiency heating and cooling equipment, high-efficiency domestic water heating equipment, high-efficiency lighting systems and improved controls, high-efficiency appliances and renewable energy systems (such as photovoltaic systems), among other purposes as determined by the Secretary of Energy in consultation with the Secretary of Housing and Urban Development.

On page 285, line 4, strike ''(c)'' and inset ''(d)''.

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**SA 4869.** Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, strike lines 17 through 22 and insert the following:

(1) USE OF INTERNATIONAL ALLOWANCES.—

On page 78, line 19, strike ''(3)'' and ''(2)''.

On page 78, line 25, strike ''paragraph (2)'' and insert ''paragraph (1)''.

On page 79, lines 3 and 4, strike ''notwithstanding paragraph (1),''.

On page 79, line 24, strike ''(2)'' and insert ''(1)''.

On page 80, line 1, strike ''(4)'' and insert ''(3)''.

On page 80, line 9, strike ''within the limitation under paragraph (1)''.

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**SA 4870.** Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. LIEBERMAN, and

Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

**Subtitle E—Aviation Sector**

**SEC. 1141. STUDY BY ADMINISTRATOR OF AVIATION SECTOR GREENHOUSE GAS EMISSIONS.**

(a) IN GENERAL.—The Administrator shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study on greenhouse gas emissions associated with the aviation industry, including—

(1) a determination of appropriate data necessary to make determinations of emission inventories, considering fuel use, airport operations, ground equipment, and all other sources of emissions in the aviation industry;

(2) an estimate of projected industry emissions for the following 5-year, 20-year, and 50-year periods;

(3) based on existing literature, research and surveys to determine the existing best practices for emission reduction in the aviation sector;

(4) recommendations on areas of focus for additional research for technologies and operations with the highest potential to reduce emissions; and

(5) recommendations of actions that the Federal Government could take to encourage or require additional emission reductions.

(b) CONSULTATION.—In developing the parameters of the study under this section, the Administrator shall conduct the study under this section in consultation with—

(1) the Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration; and

(2) other appropriate Federal agencies and departments.

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**SA 4871.** Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROTECTION OF SCIENTIFIC CREDIBILITY, INTEGRITY, AND COMMUNICATION.**

(a) SHORT TITLE.—This section may be cited as the ''Protect Science Act of 2008''.

(b) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds the following:

(A) Scientific research and innovation is a principal component to American prosperity.

(B) There have been numerous cases where Federal scientific studies and reports have been altered by political appointees and Federal employees to misrepresent or omit information.

(C) Political interference has also resulted in—

(i) the censorship of scientific information and documents requested by Congress;

(ii) the delayed release of Government science reports; and

(iii) the denial of media access to scientific researchers.

(D) Such political interference with science in the Federal agencies undermines the credibility, integrity, and consistency of the United States Government.

(2) PURPOSE.—The purpose of this section is to protect scientific credibility, integrity, and communication in research and policymaking.

(c) PROHIBITION OF POLITICAL INTERFERENCE WITH SCIENCE.—

(1) IN GENERAL.—Subchapter V of chapter 73 of title 5, United States Code, is amended by adding at the end the following:

**''§ 7354. Interference with science**

''(a) DEFINITIONS.—In this section—

''(1) the term 'censorship' means improper prevention of the dissemination of valid and nonclassified scientific findings, including directing others to do so;

''(2) the term 'political appointee' means an individual who holds a position that—

''(A) is in the executive branch of the Government and requires appointment by the President, by and with the advice and consent of the Senate;

''(B) is within the Executive Office of the President;

''(C) is on the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code;

''(D) is a Senior Executive Service position as defined under section 3132 (2) of title 5, United States Code, and not a career reserved position as defined under paragraph (8) of that section; or

''(E) is in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations;

''(3) the term 'scientific' means relating to the natural, physical, environmental, earth, ocean, climate, atmospheric, mathematical, medical, or social sciences or engineering; and

''(4) the term 'tampering' means improperly altering or obstructing so as to substantially distort, or directing others to do so.

''(b) IN GENERAL.—A political appointee may not engage in any of the following:

''(1) Tampering with the conduct or findings of federally funded scientific research or analysis.

''(2) Censorship of findings of federally funded scientific research or analysis.

''(3) Directing the dissemination of scientific information known by the directing political appointee to be false or misleading.

''(c) ENFORCEMENT.—A political appointee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.

''(d) REGULATIONS.—The Office of Government Ethics may issue regulations implementing this section.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 73 of title 5, is amended by inserting after the item relating to section 7353 the following:

''7354. Interference with science.''.

(d) PUBLICATION REQUIREMENT RELATING TO SCIENTIFIC STUDIES AND REPORTS.—

(1) DEFINITIONS.—In this section:

(A) AGENCY.—The term ''agency'' has the meaning given under section 551(1) of title 5, United States Code.

(B) SCIENTIFIC.—The term ''scientific'' means relating to the natural, physical, environmental, earth, ocean, climate, atmospheric, mathematical, medical, or social sciences or engineering.

(C) POLITICAL APPOINTEE.—The term ''political appointee'' means an individual who holds a position that—

(i) is in the executive branch of the Government and requires appointment by the President, by and with the advice and consent of the Senate;

(ii) is within the Executive Office of the President;

(iii) is on the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code;

(iv) is a Senior Executive Service position as defined under section 3132 (2) of title 5, United States Code, and not a career reserved position as defined under paragraph (8) of that section; or

(v) is in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

(2) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 48 hours after an agency publishes a scientific study or report, including a summary, synthesis, or analysis of a scientific study or report, that has been modified to incorporate oral or written comments by a political appointee that change the force, meaning, emphasis, conclusions, findings, or recommendations of the scientific or technical component of the study or report, the head of that agency shall—

(i) make available on a departmental or agency website, and on a public docket, if any, that is accessible by the public—

(I) the final version by the principal scientific investigators before review;

(II) the final version as published by the agency; and

(III) a version making a comparison of the versions described under subclauses (I) and (II), that identifies—

(aa) any modifications; and

(bb) the text making those modifications;

(ii) identify any political appointee who made those comments; and

(iii) provide uniform resource locator links on that website to both versions and related publications.

(B) PRINTED PUBLICATIONS.—The head of each agency shall ensure that the printed publication of any summary, synthesis, or analysis of a scientific study or report described under subparagraph (A) shall include a reference to the website described under that paragraph.

(3) FORMAT AND EASE OF COMPARISON.—The versions of any study or report described under paragraph (2) shall be made available—

(A) in a format that is generally available to the public; and

(B) in the same format and accessible on the same page with equal prominence, or in any other manner that facilitates comparison of the 2 versions.

(e) STATE OF SCIENTIFIC INTEGRITY REPORT.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Comptroller General shall submit a report to Congress on compliance with the requirements of section 7354 of title 5, United States Code, (as added by subsection (c) of this section) and section (d) of this section.

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**SA 4872.** Mr. ALEXANDER (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 21, strike line 24 and all that follows through page 22, line 4.

On page 22, line 5, strike ''(G)'' and insert ''(F)''.

On page 22, line 9, strike ''(H)'' and insert ''(G)''.

On page 22, line 14, strike ''(I)'' and insert ''(H)''.

On page 65, line 13, strike ''use'' and insert ''manufacture''.

On page 65, line 16, insert ''refined or'' before ''manufactured''.

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**SA 4873.** Mr. CHAMBLISS (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 6 and 7, insert the following:

**SEC. 530. ACTION UPON HIGHER FARM FUEL PRICES CAUSED BY THIS ACT.**

(a) DETERMINATION OF HIGHER FARM FUEL PRICES CAUSED BY THIS ACT.—Not less than annually, the Secretary of Agriculture, in consultation with the Secretary of Energy, the Secretary of Transportation, and the Administrator, shall determine whether implementation of this Act has caused the average retail price of fuel used to plant, manage, harvest, dry, or transport agricultural crops to increase since the date of enactment of this Act.

(b) ADMINISTRATOR ACTION.—Notwithstanding any other provision of this Act, upon a determination under subsection (a) of higher farm fuel prices caused by this Act, the Administrator shall suspend such provisions of this Act as the Administrator determines are necessary until implementation of the provisions no longer causes a farm fuel price increase.

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**SA 4874**. Mr. DOMENICI (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''American Energy Production Act of 2008''.

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



**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term ''Secretary'' means the Secretary of Energy.

## TITLE I—TRADITIONAL RESOURCES

### Subtitle A—Outer Continental Shelf

**SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.**

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the American Energy Production Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

**SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

**''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

**SEC. 103. CONFORMING AMENDMENT.**

Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

## Subtitle B—Leasing Program for Land Within Coastal Plain

**SEC. 111. DEFINITIONS.**

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

**SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered

to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

**SEC. 113. LEASE SALES.**

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

**SEC. 114. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

**SEC. 115. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

**SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a

manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

**SEC. 117. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.**

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

**SEC. 119. CONVEYANCE.**

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

**SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 122(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact

Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 122(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

**SEC. 121. PROHIBITION ON EXPORTS.**

An oil or gas lease issued under this subtitle shall prohibit the exportation of oil or gas produced under the lease.

**SEC. 122. ALLOCATION OF REVENUES.**

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 50 percent shall be deposited in the general fund of the Treasury.

(2) The remainder shall be available as follows:

(A) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section 120(a)(1).

(B) The remainder shall be disbursed to the State of Alaska.

**Subtitle C—Permitting**

**SEC. 131. REFINERY PERMITTING PROCESS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body

of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

**SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.**

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''BUREAU OF LAND MANAGEMENT'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be reduced'' and all that follows through ''each new application,''.

**Subtitle D—Restoration of State Revenue**

**SEC. 141. RESTORATION OF STATE REVENUE.**

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109) is amended by striking ''Notwithstanding'' and all that follows through ''Treasury.''.

## TITLE II—ALTERNATIVE RESOURCES

### Subtitle A—Renewable Fuel and Advanced Energy Technology

**SEC. 201. DEFINITION OF RENEWABLE BIOMASS.**

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking subparagraph (I) and inserting the following:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials or precommercial thinnings that—

''(I) are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are harvested from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702))—

''(aa) where permitted by law; and

''(bb) in accordance with applicable land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or from land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''.

**SEC. 202. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporation of qualifying components into the design of advanced batteries; and

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) FEES.—The cost of administering a loan made under this section shall not exceed $100,000.

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

**SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Assistant Administrator of the Office of Research and Development of the Environmental Protection Agency (referred to in this section as the ''Assistant Administrator''), in consultation with the Secretary and the National Institute of Standards and Technology, shall carry out a program of research and development of materials to be added to biofuels to make the biofuels more compatible with infrastructure used to store and deliver petroleum-based fuels to the point of final sale.

(b) REQUIREMENTS.—In carrying out the program described in subsection (a), the Assistant Administrator shall address—

(1) materials to prevent or mitigate—

(A) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(B) dissolving of storage tank sediments;

(C) clogging of filters;

(D) contamination from water or other adulterants or pollutants;

(E) poor flow properties relating to low temperatures;

(F) oxidative and thermal instability in long-term storage and use; and

(G) microbial contamination;

(2) problems associated with electrical conductivity;

(3) alternatives to conventional methods for refurbishment and cleaning of gasoline and diesel tanks, including tank lining applications;

(4) strategies to minimize emissions from infrastructure;

(5) issues with respect to certification by a nationally recognized testing laboratory of components for fuel-dispensing devises that specifically reference compatibility with alcohol-blended fuels and other biofuels that contain greater than 15 percent alcohol;

(6) challenges for design, reforming, storage, handling, and dispensing hydrogen fuel from various feedstocks, including biomass, from neighborhood fueling stations, including codes and standards development necessary beyond that carried out under section 809 of the Energy Policy Act of 2005 (42 U.S.C. 16158);

(7) issues with respect to at which point in the fuel supply chain additives optimally should be added to fuels; and

(8) other problems, as identified by the Assistant Administrator, in consultation with the Secretary and the National Institute of Standards and Technology.

**SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETHANOL-BLENDED GASOLINE WITH HIGHER LEVELS OF ETHANOL.**

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, and after providing notice and an opportunity for public comment, shall conduct a study of the feasibility of increasing consumption in the United States of ethanol-blended gasoline with levels of ethanol that are not less than 10 percent and not more than 40 percent.

(b) STUDY.—The study under subsection (a) shall include—

(1) a review of production and infrastructure constraints on increasing consumption of ethanol;

(2) an evaluation of the economic, market, and energy-related impacts of State and regional differences in ethanol blends;

(3) an evaluation of the economic, market, and energy-related impacts on gasoline retailers and consumers of separate and distinctly labeled fuel storage facilities and dispensers;

(4) an evaluation of the environmental impacts of mid-level ethanol blends on evaporative and exhaust emissions from on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(5) an evaluation of the impacts of mid-level ethanol blends on the operation, durability, and performance of on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(6) an evaluation of the safety impacts of mid-level ethanol blends on consumers that own and operate off-road and marine engines, recreational boats, vehicles, or equipment; and

(7) an evaluation of the impacts of increased use of renewable fuels derived from food crops on the price and supply of agricultural commodities in both domestic and global markets.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

**SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.**

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E–85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## Subtitle B—Clean Coal-Derived Fuels for Energy Security

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

**SEC. 212. DEFINITIONS.**

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

**SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

| Calendar year: | Applicable volume of clean coal-derived fuel (in billions of gallons): |
|---|---|
| 2015 | 0.75 |
| 2016 | 1.5 |
| 2017 | 2.25 |
| 2018 | 3.00 |
| 2019 | 3.75 |
| 2020 | 4.5 |
| 2021 | 5.25 |
| 2022 | 6.0. |

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

**Subtitle C—Oil Shale**

**SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

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

**SEC. 231. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.**

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

**SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.**

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

**"§ 2410r. Multiyear contract authority: purchase of synthetic fuels**

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of

such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

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**SA 4875.** Mr. DOMENICI (for himself and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, strike lines 6 through 13 and insert the following:

(c) LEGAL STATUS OF EMISSION ALLOWANCES.—Noth-

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**SA 4876.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

**TITLE XVIII—CLEAN ENERGY INVESTMENT BANK**

**SEC. 1801. SHORT TITLE.**

This title may be cited as the ''Clean Energy Investment Bank Act of 2008''.

**SEC. 1802. DEFINITIONS.**

In this title:

(1) BANK.—The term ''Bank'' means the Clean Energy Investment Bank of the United States established by section 1803(a).

(2) BOARD.—The term ''Board'' means the Board of Directors of the Bank established under section 1804(b).

(3) CLEAN ENERGY INVESTMENT BANK FUND.—The term ''Clean Energy Investment Bank Fund'' means the revolving fund account established under section 1806(b).

(4) COMMERCIAL TECHNOLOGY.—The term ''commercial technology'' means a technology in general use in the commercial marketplace.

(5) ELIGIBLE PROJECT.—The term ''eligible project'' means a project in a State related to the production or use of energy that uses a commercial technology that the Bank determines avoids, reduces, or sequesters 1 or more air pollutants or anthropogenic emissions of greenhouse gases more effectively than other technology options available to the project developer.

(6) INVESTMENT.—The term ''investment'' includes any contribution or commitment to an eligible project in the form of—

(A) loans or loan guarantees;

(B) the purchase of equity shares in the project;

(C) participation in royalties, earnings, or profits; or

(D) furnishing commodities, services or other rights under a lease or other contract.

(7) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

**SEC. 1803. ESTABLISHMENT OF BANK.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Executive branch a bank to be known as the ''Clean Energy Investment Bank of the United States,'' which shall be an agency of the United States.

(2) GOVERNMENT CORPORATION.—The Bank shall be—

(A) a Government corporation (as defined in section 103 of title 5, United States Code); and

(B) subject to chapter 91 of title 31, United States Code, except as expressly provided in this title.

(b) AUTHORITY.—

(1) IN GENERAL.—The Bank shall assist in the financing, and facilitate the commercial use, of clean energy and energy efficient technologies within the United States.

(2) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Bank may make investments—

(A) in eligible projects on such terms and conditions as the Bank considers appropriate in accordance with this title; or

(B) under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.), and any of the regulations promulgated under that Act, as the Bank considers appropriate.

(3) REPAYMENT.—No loan or loan guarantee shall be made under this subsection unless the Bank determines that there is a reasonable prospect of repayment of the principal and interest by the borrower.

(4) PROJECT DIVERSITY.—The Bank shall ensure that a reasonable diversity of projects, technologies, and energy sectors receive assistance under this subsection.

(c) POWERS.—In carrying out this title, the Bank may—

(1) conduct a general banking business (other than currency circulation), including—

(A) borrowing and lending money;

(B) issuing letters of credit;

(C) accepting bills and drafts drawn upon the Bank;

(D) purchasing, discounting, rediscounting, selling, and negotiating, with or without endorsement or guaranty, and guaranteeing, notes, drafts, checks, bills of exchange, acceptances (including bankers' acceptances), cable transfers, and other evidences of indebtedness;

(E) issuing guarantees, insurance, coinsurance, and reinsurance;

(F) purchasing and selling securities; and

(G) receiving deposits;

(2) make investments in eligible projects on a self-sustaining basis, taking into account the financing operations of the Bank and the economic and financial soundness of projects;

(3) use private credit, investment institutions, and the guarantee authority of the Bank as the principal means of mobilizing capital investment funds;

(4) broaden private participation and revolve the funds of the Bank through selling the direct investments of the Bank to private investors whenever the Bank can appropriately do so on satisfactory terms;

(5) conduct the insurance operations of the Bank with due regard to principles of risk management, including efforts to share the insurance risks of the Bank;

(6) foster private initiative and competition and discourage monopolistic practices; and

(7) advise and assist interested agencies of the United States and other organizations, public and private and national and international, with respect to projects and programs relating to the development of private enterprise in the market sector in accordance with this title.

**SEC. 1804. ORGANIZATION AND MANAGEMENT.**

(a) STRUCTURE OF BANK.—The Bank shall have—

(1) a Board of Directors;

(2) a President;

(3) an Executive Vice President; and

(4) such other officers and staff as the Board may determine.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT.—There is established a Board of Directors of the Bank to exercise all powers of the Bank.

(2) COMPOSITION.—

(A) IN GENERAL.—The Board shall be composed of 7 members, of whom—

(i) 5 members shall be independent directors appointed by the President of the United States, by and with the advice and consent of the Senate (referred to in this subsection as ''independent directors''; and

(ii) 2 members shall be the President of the Bank and the Executive Vice President of the Bank, appointed by the independent directors.

(B) FEDERAL EMPLOYMENT.—An independent director shall not be an officer or employee of the Federal Government at the time of appointment.

(C) POLITICAL PARTY.—Not more than 3 of the independent directors shall be members of the same political party.

(3) TERM; VACANCIES.—

(A) TERM.—

(i) IN GENERAL.—Subject to clause (ii), the independent directors shall be appointed for a term of 5 years and may be reappointed.

(ii) STAGGERED TERMS.—The terms of not more than 2 independent directors shall expire in any year.

(B) VACANCIES.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(4) MEETINGS.—

(A) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold the initial meeting of the Board.

(B) MEETINGS.—The Board shall meet at the call of the Chairman of the Board.

(C) QUORUM.—Four members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(5) CHAIRMAN AND VICE CHAIRMAN.—

(A) IN GENERAL.—The Board shall select a Chairman and Vice Chairman from among the members of the Board.

(B) ELIGIBILITY.—The Chairman of the Board shall not be an Executive Director of the Board.

(6) COMPENSATION OF MEMBERS.—An independent director shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the

member is engaged in the performance of the duties of the Board.

(7) TRAVEL EXPENSES.—An independent director shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(c) PRESIDENT OF THE BANK.—

(1) APPOINTMENT.—The President of the Bank shall be appointed by the Board.

(2) DUTIES.—The President of the Bank shall—

(A) be the Chief Executive Officer of the Bank;

(B) be responsible for the operations and management of the Bank, subject to bylaws and policies established by the Board; and

(C) serve as an Executive Director on the Board.

(d) EXECUTIVE VICE PRESIDENT.—

(1) APPOINTMENT.—The Executive Vice President of the Bank shall be appointed by the Board.

(2) DUTIES.—The Executive Vice President of the Bank shall—

(A) serve as the President of the Bank during the absence or disability, or in the event of a vacancy in the office, of the President of the Bank;

(B) at other times, perform such functions as the President of the Bank may from time to time prescribe; and

(C) serve as an Executive Director on the Board.

(e) STAFF.—

(1) IN GENERAL.—The Board may—

(A) appoint and terminate such officers, attorneys, employees, and agents as are necessary to carry out this title; and

(B) vest the personnel with such powers and duties as the Board may determine.

(2) CIVIL SERVICE LAWS.—Persons employed by the Bank may be appointed, compensated, or removed without regard to civil service laws (including regulations).

(3) REAPPOINTMENT.—Under such regulations as the President of the United States may promulgate, an officer or employee of the Federal Government who is appointed to a position under this subsection may be entitled, on removal from the position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary.

(4) ADDITIONAL POSITIONS.—Positions authorized under this subsection shall be in addition to other positions otherwise authorized by law, including positions authorized by section 5108 of title 5, United States Code.

**SEC. 1805. FINANCING, GUARANTIES, INSURANCE, CREDIT SUPPORT, AND OTHER PROGRAMS.**

(a) INTERGOVERNMENTAL AGREEMENTS.—Subject to the other provisions of this section, the Bank may enter into arrangements with State and local governments (including agencies, instrumentalities, or political subdivisions of State and local governments) for sharing liabilities assumed by providing financial assistance for eligible projects under this title.

(b) INSURANCE.—

(1) IN GENERAL.—The Bank may issue insurance, on such terms and conditions as the Bank may determine, to ensure protection in whole or in part against any or all of the risks with respect to eligible projects that the Bank has approved.

(2) DUPLICATION OF ASSISTANCE.—The Bank shall not offer any insurance products under this subsection that duplicate or augment any other similar Federal assistance.

(c) GUARANTEES.—

(1) IN GENERAL.—The Bank may issue guarantees of loans and other investments made by investors assuring against loss in eligible projects on such terms and conditions as the Bank may determine.

(2) BUDGETARY TREATMENT.—Any guarantee issued under this subsection shall, for budgetary purposes, be considered a loan guarantee (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(d) LOANS AND CREDIT ASSISTANCE.—

(1) IN GENERAL.—The Bank may make loans, provide letters of credit, issue other credit enhancements, or provide other financing for eligible projects on such terms and conditions as the Bank may determine.

(2) BUDGETARY TREATMENT.—Any financial instrument issued under this subsection shall, for budgetary purposes, be considered a direct loan (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(e) ELIGIBLE PROJECT DEVELOPMENT INVESTMENT ENCOURAGEMENT.—The Bank may provide financial assistance under this section for development activities for eligible projects, under such terms and conditions as the Bank may determine, if the Board determines that the assistance is necessary to encourage private investment or accelerate project development.

(f) OTHER INSURANCE FUNCTIONS.—The Bank may—

(1) using agreements and contracts that are consistent with this title—

(A) make and carry out contracts of insurance or agreements to associate or share risks with insurance companies, financial institutions, any other person or group of persons; and

(B) employ entities described in subparagraph (A), if appropriate, as the agent of the Bank in—

(i) the issuance and servicing of insurance;

(ii) the adjustment of claims;

(iii) the exercise of subrogation rights;

(iv) the ceding and acceptance of reinsurance; and

(v) any other matter incident to an insurance business; and

(2) enter into pooling or other risk-sharing agreements with other governmental insurance or financing agencies or groups of those agencies.

(g) EQUITY FINANCE PROGRAM.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Bank may establish an equity finance program under which the Bank may, in accordance with this subsection, purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, on such terms and conditions as the Bank may determine, for the purpose of providing capital for any project that is consistent with this title.

(2) TOTAL AMOUNT OF EQUITY INVESTMENTS.—

(A) TOTAL AMOUNT OF EQUITY INVESTMENT UNDER EQUITY FINANCE PROGRAM.—

(i) IN GENERAL.—Except as provided in clause (ii), the total amount of the equity investment of the Bank with respect to any project under this subsection shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to the project at the time at which the equity investment of the Bank is made.

(ii) DEFAULTS.—Clause (i) shall not apply to a security acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the investment of the Bank.

(B) TOTAL AMOUNT OF EQUITY INVESTMENT UNDER MULTIPLE PROGRAMS.—

(i) IN GENERAL.—The equity investment of the Bank under this subsection with respect to any project, when added to any other investments made or guaranteed by the Bank under subsection (c) or (d) with respect to the project, shall not cause the aggregate amount of all the investments to exceed, at the time any such investment is made or guaranteed by the Bank, 75 percent of the total investment committed to the project, as determined by the Bank.

(ii) CONCLUSIVE DETERMINATION.—The determination of the Bank under this subparagraph shall be conclusive for purposes of the authority of the Bank to make or guarantee any investment described in clause (i).

(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Bank shall consider the extent to which the equity investment of the Bank will assist in obtaining the financing required for the project.

(4) IMPLEMENTATION.—

(A) IN GENERAL.—The Bank may create such legal vehicles as are necessary for implementation of this subsection.

(B) NON-FEDERAL BORROWERS.—A borrower participating in a legal vehicle created under this paragraph shall be considered a non-Federal borrower for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(C) SECURITIES.—Income and proceeds of investments made under this subsection may be used to purchase equity or quasi-equity securities in accordance with this section.

(h) RELATIONSHIP TO FEDERAL CREDIT REFORM ACT OF 1990.—

(1) IN GENERAL.—Any liability assumed by the Bank under subsections (c) and (d) shall be discharged pursuant to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

(A) IN GENERAL.—No loan guaranteed under subsection (c) or direct loan under subsection (d) shall be made unless—

(i) an appropriation for the cost has been made; or

(ii) the Bank has received from the borrower a payment in full for the cost of the obligation.

(B) BUDGETARY TREATMENT.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan or loan guarantee made in accordance with subparagraph (A)(ii).

(3) APPORTIONMENT.—Receipts, proceeds, and recoveries realized by the Bank and the obligations and expenditures made by the Bank pursuant to this subsection shall be exempt from apportionment under subchapter II of chapter 15 of title 31, United States Code.

**SEC. 1806. ISSUING AUTHORITY; DIRECT INVESTMENT AUTHORITY AND RESERVES.**

(a) MAXIMUM CONTINGENT LIABILITY.—The maximum contingent liability outstanding at any time pursuant to actions taken by the Bank under section 1805 shall not exceed a total amount of $100,000,000,000.

(b) CLEAN ENERGY INVESTMENT BANK FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Clean Energy Investment Bank Fund'' (referred to in this section as the ''Fund'').

(2) USE.—The Clean Energy Investment Bank Fund shall be available for discharge of liabilities under section 1805 (other than subsections (c) and (d) of section 1805) until the earlier of—

(A) the date on which all liabilities of the Bank have been discharged or expire; or

(B) the date on which all amounts in the Fund have been expended in accordance with this section.

(3) APPORTIONMENT.—Receipts, proceeds, and recoveries realized by the Bank and the obligations and expenditures made by the

Bank pursuant to this subsection shall be exempt from apportionment under subchapter II of chapter 15 of title 31, United States Code.

(c) PAYMENTS OF LIABILITIES.—Any payment made to discharge liabilities arising from agreements under section 1805 (other than subsections (c) and (d) of section 1805) shall be paid out of the Clean Energy Investment Bank Fund.

(d) SUPPLEMENTAL BORROWING AUTHORITY.—

(1) IN GENERAL.—In order to maintain sufficient liquidity in the revolving loan fund, the Bank may issue from time to time for purchase by the Secretary of the Treasury notes, debentures, bonds, or other obligations.

(2) MAXIMUM TOTAL AMOUNT.—The total amount of obligations issued under paragraph (1) that is outstanding at any time shall not exceed $2,000,000,000.

(3) REPAYMENT.—Any obligation issued under paragraph (1) shall be repaid to the Treasury not later than 1 year after the date of issue of the obligation.

(4) INTEREST RATE.—Any obligation issued under paragraph (1) shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection.

(5) PURCHASE OF OBLIGATIONS.—

(A) IN GENERAL.—The Secretary of the Treasury—

(i) shall purchase any obligation of the Bank issued under this subsection; and

(ii) for the purchase, may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code.

(B) PURPOSES.—The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any purchase under this paragraph.

**SEC. 1807. ADMINISTRATION.**

(a) PROTECTION OF INTEREST OF BANK.—The Bank shall ensure that suitable arrangements exist for protecting the interest of the Bank in connection with any agreement issued under this title.

(b) FULL FAITH AND CREDIT.—

(1) OBLIGATION.—A loan guarantee issued by the Bank under section 1805(c) shall constitute an obligation, in accordance with the terms of the guarantee, of the United States.

(2) PAYMENT.—The full faith and credit of the United States is pledged for the full payment and performance of the obligation.

(c) FEES.—

(1) IN GENERAL.—The Bank shall establish and collect fees for services under this title in amounts to be determined by the Bank.

(2) AVAILABILITY OF FEES.—Except as provided in paragraph (3), fees collected by the Bank under paragraph (1) (including fees collected for administrative expenses in carrying out subsections (c) and (d) of section 1805) may be retained by the Bank and may remain available to the Bank, without further appropriation or fiscal year limitation, for payment of administrative expenses incurred in carrying out this title.

(3) FEE TRANSFER AUTHORITY.—Fees collected by the Bank for the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of a loan or loan guarantee made under subsection (c) or (d) of section 1805 shall be transferred by the Bank to the respective credit program accounts.

**SEC. 1808. GENERAL PROVISIONS AND POWERS.**

(a) PRINCIPAL OFFICE.—The Bank shall—

(1) maintain its principal office in the District of Columbia; and

(2) be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(b) TRANSFER OF FUNCTIONS AND AUTHORITY.—

(1) IN GENERAL.—On appointment of a majority of the Board by the President, all of the functions and authority of the Secretary of Energy under predecessor programs and authorities similar to those provided under subsections (c) and (d) of section 1805, including those under title XVII of the Energy Policy Act of 2005 (42 U. S.C. 16511 et seq.), shall be transferred to the Board.

(2) CONTINUATION PRIOR TO TRANSFER.—Until the transfer, the Secretary of Energy shall continue to administer such programs and activities, including programs and authorities under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.).

(3) EFFECT ON EXISTING RIGHTS AND OBLIGATIONS.—The transfer of functions and authority under this subsection shall not affect the rights and obligations of any party that arise under a predecessor program or authority prior to the transfer under this subsection.

(c) AUDITS.—

(1) IN GENERAL.—Except as otherwise provided in this title, the Bank shall be subject to the applicable provisions of chapter 91 of title 31, United States Code.

(2) PERIODIC AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(A) IN GENERAL.—Except as provided in paragraph (3), an independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Bank at least once every 3 years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General of the United States.

(B) REPORT TO BOARD.—The independent certified public accountant shall report the results of the audit to the Board.

(C) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The financial statements of the Bank shall be presented in accordance with generally accepted accounting principles.

(D) REPORTS.—

(i) IN GENERAL.—The financial statements and the report of the accountant shall be included in a report that—

(I) contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code; and

(II) the Bank shall submit to Congress not later than 210 days after the end of the last fiscal year covered by the audit.

(ii) REVIEW.—The Comptroller General of the United States may review the audit conducted by the accountant and the report to Congress in such manner and at such times as the Comptroller General considers necessary.

(3) ALTERNATIVE AUDITS BY COMPTROLLER GENERAL OF THE UNITED STATES.—

(A) IN GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General of the United States shall, if the Comptroller General considers it necessary, audit the financial statements of the Bank in the manner provided under paragraph (2).

(B) REIMBURSEMENT.—The Bank shall reimburse the Comptroller General of the United States for the full cost of any audit conducted under this paragraph.

(4) AVAILABILITY OF RECORDS.—All books, accounts, financial records, reports, files, work papers, and property belonging to or in use by the Bank and the accountant who conducts the audit under paragraph (2), that are necessary for purposes of this subsection, shall be made available to the Comptroller General of the United States.

**SEC. 1809. REPORTS TO CONGRESS.**

As soon as practicable after the end of each fiscal year, the Bank shall submit to Congress a complete and detailed report describing the operations of the Bank during the fiscal year.

**SEC. 1810. MODIFICATION TO LOAN GUARANTEE PROGRAM.**

(a) DEFINITION OF COMMERCIAL TECHNOLOGY.—Section 1701(1) of the Energy Policy Act of 2005 (42 U.S.C. 16511(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) EXCLUSION.—The term 'commercial technology' does not include a technology if the sole use of the technology is in connection with—

''(i) a demonstration plant; or

''(ii) a project for which the Secretary approved a loan guarantee.''.

(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (b) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) an appropriation for the cost has been made; or

''(B) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

''(2) LIMITATION.—The source of payments received from a borrower under paragraph (1)(B) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government.

''(3) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan or loan guarantee made in accordance with paragraph (1)(B).''.

(c) AMOUNT.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (c) and inserting the following:

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee up to 100 percent of the principal and interest due on 1 or more loans for a facility that are the subject of the guarantee.

''(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total cost of the facility, as estimated at the time at which the guarantee is issued.''.

(d) SUBROGATION.—Section 1702(g)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(e) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into a special fund in the Treasury to be known as the 'Incentives For Innovative Technologies Fund'; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.''.

**SEC. 1811. INTEGRATION OF LOAN GUARANTEE PROGRAMS.**

(a) DEFINITION OF BANK.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) BANK.—The term 'Bank' means the Clean Energy Investment Bank of the United States established by section 1803(a) of the Clean Energy Investment Bank Act of 2008.''.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by striking ''Secretary'' each place it appears (other than the last place it appears in section 1702(a)) and inserting ''Board''.

(2) CONFORMING AMENDMENTS.—Section 1702(g) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)) is amended—

(A) in the heading for paragraph (1), by striking ''SECRETARY'' and inserting ''BANK''; and

(B) in the heading for paragraph (3), by striking ''SECRETARY'' and inserting ''BANK''.

(c) APPLICATION.—The amendments made by this section are effective on the date the President transfers to the Bank under section 1809(b)(1) the authority to carry out title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.).

**SEC. 1812. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to the Bank, to remain available until expended, such sums as are necessary to—

(1) replenish or increase the Clean Energy Investment Bank Fund; or

(2) discharge obligations of the Bank purchased by the Secretary of the Treasury under this title.

(b) MINIMUM LEVELS IN THE CLEAN ENERGY INVESTMENT BANK FUND.—No appropriations shall be made to augment the Clean Energy Investment Bank Fund unless the balance in the Clean Energy Investment Bank Fund is projected to be less than $50,000,000 during the fiscal year for which an appropriation is made.

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**SA 4877**. Mr. CASEY (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

**SEC. 3___. SENSE OF SENATE REGARDING THE POTENTIAL IMPACT OF CLIMATE CHANGE ON THE GLOBAL FOOD CRISIS.**

(a) FINDINGS.—The Senate finds that—

(1) the costs of addressing climate change will only increase the longer the causes of climate change are not addressed;

(2) the consequences of climate change will include major storms and weather-related disruptions, increased wildfires, and loss of food crops;

(3) the Secretary of Agriculture has determined that climate change is already affecting water resources, agriculture, land resources, and biodiversity, and will continue to do so;

(4) a leading cause of the ongoing global food crisis is heightened volatility in climate conditions leading to extended droughts around the world, particularly in Australia; and

(5) the consequences of increased food prices have already resulted in hunger and political unrest in many parts of the world.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is in the interest of the United States to address in a serious manner the consequences a warming climate will have on global food production; and

(2) as the United States assesses the costs of climate change, the potential of harmful impacts on global crop harvests and resulting food security crises should be fully considered.

(c) REPORT.—Not later than December 31, 2008, the President shall submit to Congress a report that assesses the specific impact of weather-related events on the global food crisis that emerged during the first 180 days of 2008.

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**SA 4878**. Mr. ROBERTS (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle I of title V, add the following:

**SEC. 5___. GUARANTEED PROTECTION OF AMERICAN AGRICULTURAL PRODUCERS FROM HIGHER FERTILIZER PRICES CAUSED BY THIS ACT.**

This Act shall not take effect until the date on which the Secretary of Agriculture, after consultation with the Administrator, determines that the implementation of this Act will not cause the retail price of fertilizer to increase more than 20 percent during the period of effectiveness of this Act.

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**SA 4879.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Amend the title so as to read: ''A bill to promote the energy security of the United States, and for other purposes.''.

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**SA 4880.** Mr. WARNER (for himself, Mr. LIEBERMAN, Mr. CARPER, Mrs. DOLE, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 164, strike line 15 and insert the following:

(c) EDUCATION AND TRAINING.—For each

Beginning on page 181, strike line 1 and all that follows through page 183, line 3, and insert the following:

**SEC. 536. EDUCATION AND TRAINING.**

(a) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) each 5-year period during the period beginning on January 1, 2012, and ending on December 31, 2047; and

(2) the 3-year period beginning on January 1, 2048, and ending on December 31, 2050.

(b) USE OF FUNDS.—Of amounts made available under section 534(c) for the calendar years in each applicable period—

(1) the Secretary of Energy shall use such amounts for each applicable period as the Secretary of Energy determines to be necessary to increase the number and amounts of nuclear science talent expansion grants and nuclear science competitiveness grants provided under section 5004 of the America COMPETES Act (42 U.S.C. 16532); and

(2) of the remainder—

(A) 50 percent shall be allocated to the Secretary of Labor, in consultation with nuclear energy entities and organized labor, for use for each applicable period to expand workforce training to meet the high demand for workers skilled in nuclear power plant construction and operation, including programs for—

(i) electrical craft certification;

(ii) preapprenticeship career technical education for industrialized skilled crafts that are useful in the construction of nuclear power plants;

(iii) community college and skill center training for nuclear power plant technicians;

(iv) training of construction management personnel for nuclear power plant construction projects; and

(v) regional grants for integrated nuclear energy workforce development programs; and

(B) 50 percent shall be made available to the Secretary of Education for use for each applicable period to support climate change policy and science education in the United States.

On page 292, strike line 22 and insert the following:

**SEC. 901. FINDINGS; SENSE OF SENATE.**

(a) FINDINGS.—Congress finds that—

(1) more than 40 years of experience in the United States relating to commercial nuclear power plants have demonstrated that nuclear reactors can be operated safely;

(2) in 2007, nuclear power plants produced 19 percent of the electricity generated in the United States;

(3) nuclear power plants are the only baseload source of emission-free electric generation, emitting no greenhouse gases or criteria pollutants associated with acid rain, smog, or ozone;

(4) in 2007, nuclear power plants in the United States—

(A) avoided more than 692,000,000 metric tons of carbon dioxide emissions; and

(B) accounted for more than 73 percent of emission-free electric generation in the United States;

(5) a lifecycle emissions analysis by the International Energy Agency determined that nuclear power plants emit fewer greenhouse gases than wind energy, solar energy, and biomass on a per kilowatt-hour basis;

(6) construction of a new nuclear power plant is estimated to require between 1,400 and 1,800 jobs during a 4-year period, with peak employment reaching as many as 2,400 workers;

(7)(A) once operational, a new nuclear power plant is estimated to provide 400 to 600 full-time jobs for up to 60 years; and

(B) jobs at nuclear power plants pay, on average, 40 percent more than other jobs in surrounding communities;

(8) revitalization of a domestic manufacturing industry to provide nuclear components for new power plants that can be deployed in the United States and exported for use in global carbon reduction programs will provide thousands of new, high-paying jobs and contribute to economic growth in the United States;

(9) data of the Bureau of Labor Statistics demonstrate that it is safer to work in a nuclear power plant than to work in the real estate or financial sectors;

(10) while aggressive energy efficiency measures and an increased deployment of renewable generation can and should be taken,

the United States will be unable to meet climate reduction goals without the construction of new nuclear power plants;

(11) modeling conducted by the Environmental Protection Agency and the Energy Information Administration demonstrate that emission reductions are greater, and compliance costs are lower, if nuclear power plants are used to provide a greater percentage of electricity;

(12) the United States has been a world leader in nuclear science; and

(13) institutions of higher education in the United States will play a critical role in advancing knowledge about the use and the safety of nuclear energy for the production of electricity.

(b) SENSE OF SENATE REGARDING USE OF FUNDS.—It is the Sense of the Senate that Congress should stimulate private sector investment in the manufacturing of nuclear project components in the United States, including through the financial incentives program established under this subtitle.

**SEC. 902. DEFINITIONS.**

On page 293, line 10, strike ''and''.

On page 293, line 13, strike the period and insert ''; and''.

On page 293, between lines 13 and 14, insert the following:

(D) establishing procedures, programs, and facilities to achieve American Society of Mechanical Engineers certification standards.

On page 294, strike lines 3 and 4 and insert the following:

(A)(i) emits no carbon dioxide into the atmosphere; or

(ii) is fossil-fuel fired and—

(I) emits into the atmosphere not more than 250 pounds of carbon dioxide per megawatt-hour (after adjustment for any carbon dioxide from the unit that is geologically sequestered); or

(II)(aa) uses subbituminous coal, lignite, or petroleum coke in significant quantities; and

(bb) meets the emission performance standard promulgated pursuant to subsection 1012; and

On page 294, strike lines 7 through 12 and insert the following:

(5) ZERO- OR LOW-CARBON GENERATION TECHNOLOGY.—The term ''zero- or low-carbon generation technology'' means—

(A) a technology used to create zero- or low-carbon generation, including—

(i) a technology referred to in section 832(a); and

(ii) nuclear power technology; or

(B) any other technology relating to a low- or zero-carbon activity that meets the requirements of this subtitle.

**SEC. 903. LOW- AND ZERO-CARBON ELECTRICITY TECHNOLOGY FUND.**

On page 294, line 16, strike ''903'' and insert ''904''.

On page 297, line 5, strike ''904'' and insert ''905''.

On page 297, line 7, strike ''903'' and insert ''904''.

On page 297, line 10, strike ''905'' and insert ''906''.

On page 297, line 14, strike ''904'' and insert ''905''.

On page 297, line 18, strike ''906'' and insert ''907''.

On page 297, line 19, strike ''906'' and insert ''907''.

On page 298, line 4, strike ''907'' and insert ''908''.

On page 298, line 17, strike ''909'' and insert ''910''.

On page 299, line 16, strike ''908'' and insert ''909''.

On page 301, line 11, strike ''909'' and insert ''910''.

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**SA 4881.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 9 and 10, insert the following:

(50) TAP.—The term ''TAP'' means the technology accelerator payment determined under section 202(a)(2).

On page 31, line 10, strike ''(50)'' and insert ''(51)''.

On page 31, line 14, strike ''(51)'' and insert ''(52)''.

Beginning on page 65, strike line 3 and all that follows through page 66, line 19, and insert the following:

**SEC. 202. COMPLIANCE OBLIGATION.**

(a) SUBMISSION OF ALLOWANCES OR TAP PRICE.—

(1) IN GENERAL.—Not later than 90 days after the end of each of calendar years 2012 through 2050, the owner or operator of a covered entity shall submit to the Administrator—

(A) an emission allowance or an offset allowance for each carbon dioxide equivalent of—

(i) non-HFC greenhouse gas that was emitted by that covered entity in the United States during the preceding calendar year through the use of coal;

(ii) non-HFC greenhouse gas that will be emitted through the use of petroleum-based liquid or gaseous fuel, petroleum coke, or coal-based liquid or gaseous fuel that was, during the preceding calendar year, manufactured by that covered entity in the United States or imported into the United States by that covered entity;

(iii) non-HFC greenhouse gas, that was, during the preceding calendar year, manufactured by that covered entity in the United States or imported into the United States by that covered entity, in each case in which the non-HFC greenhouse gas is not itself a petroleum- or coal-based gaseous fuel or natural gas;

(iv) each HFC that was, during the preceding calendar year, emitted as a byproduct of hydrochlorofluorocarbon manufacture in the United States by that covered entity; and

(v) non-HFC greenhouse gas that will be emitted—

(I) through the use of natural gas that was, during the preceding calendar year, processed in the United States by that covered entity, imported into the United States by that covered entity, or produced in the State of Alaska or the Federal waters of the outer Continental Shelf off the coast of that State by that covered entity and not reinjected into the field; or

(II) through the use of natural gas liquids that were, during the preceding year, processed in the United States by that covered entity or imported into the United States by that covered entity; or

(B) a payment equal to the amount of the applicable TAP price in lieu of submission of 1 or more required emission allowances or offset allowances, to be used by the Administrator in accordance with paragraph (3).

(2) DETERMINATION OF APPLICABLE TAP PRICE.—The applicable TAP price per allowance shall be—

(A) for calendar year 2012, $12 per metric ton of carbon dioxide equivalent emitted by a covered entity; and

(B) for each subsequent calendar year, an amount equal to the product obtained by multiplying—

(i) the TAP price established for the preceding calendar year, increased by 5 percent; and

(ii) the ratio that—

(I) the implicit price deflator for the gross domestic product, as computed and published by the Department of Commerce for the most recent 4-calendar quarter period for which data is available; bears to

(II) the implicit price deflator for the gross domestic product, as computed and published by the Department of Commerce for the 4-calendar quarter period immediately preceding the period referred to in subclause (I).

(3) USE OF TAP PRICE PAYMENTS.—

(A) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall transfer to the Climate Change Technology Board established by section 431 an amount equal to the total amount of TAP price payments received by the Administrator under paragraph (1)(B) for that calendar year.

(B) USE BY BOARD.—The Climate Change Technology Board shall use amounts transferred to the Board under subparagraph (A) to accelerate the commercialization and diffusion of low- and zero-carbon technologies and practices.

On page 67, lines 4 and 5, strike ''paragraph (2) nor paragraph (5) of subsection (a)'' and insert ''clause (ii) nor clause (v) of subsection (a)(1)(A)''.

On page 67, line 18, strike ''subsection (a)(2)'' and insert ''subsection (a)(1)(A)(ii)''.

On page 68, line 14, strike ''(a)'' and insert ''(a)(1)(A)''.

On page 70, line 7, strike ''(a)'' and insert ''(a)(1)(A)''.

On page 70, lines 15 and 16, strike ''paragraph (2), (3), or (5) of subsection (a)'' and insert ''clause (ii), (iii), or (v) of subsection (a)(1)(A)''.

On page 71, line 3, strike ''(a)(2)'' and insert ''(a)(1)(A)(ii)''.

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**SA 4882.** Mr. SPECTER (for himself, Mr. BROWN, Mr. LEVIN, Ms. KLOBUCHAR, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 382, strike line 24 and all that follows through page 385, line 10, and insert the following:

(4) COMPARABLE ACTION.—The term ''comparable action'' means any greenhouse gas regulatory programs, requirements, and other measures adopted by a foreign country that, in combination, are comparable in effect to actions carried out by the United States, such that, on a countrywide basis, the measures mandate and achieve a percentage reduction (or limitation on increase, as appropriate) of greenhouse gas emissions in the foreign country, as compared to the greenhouse gas emissions of the foreign country during calendar year 2005, that is substantially equivalent to the percentage reduction (or limitation on increase, as appropriate) in United States emissions mandated and achieved under this Act, as compared to the greenhouse gas emissions of the United States during calendar year 2005.

On page 386, strike lines 16 through 20 and insert the following:

(10) INDIRECT GREENHOUSE GAS EMISSIONS.—The term ''indirect greenhouse gas emissions'' means any emissions of a greenhouse gas—

(A) resulting from the generation of electricity that is consumed during the manufacture of a good; or

(B) directly or indirectly associated with the production of any input used in the manufacture of a good.

On page 388, strike lines 3 through 18.

On page 388, line 19, strike ''(15)'' and insert ''(14)''.

On page 392, strike lines 4 and 5 and insert the following:

would otherwise be excluded under subparagraph (B) of section 1306(b)(2); and

On page 398, strike lines 8 through 10.

On page 398, line 11, strike ''(5)'' and insert ''(4)''.

On page 398, line 13, strike ''(6)'' and insert ''(5)''.

On page 399, line 24, strike ''2013'' and insert ''2011''.

On page 400, line 1, strike '', and the extent to which,''.

On page 400, strike lines 4 through 12 and insert the following:

the foreign country.

On page 400, strike lines 16 and 17 and insert the following:

list pursuant to subparagraph (B) of section 1306(b)(2) for that calendar year.

On page 403, line 12, strike ''third'' and insert ''first''.

Beginning on page 403, strike line 18 and all that follows through page 405, line 7, and insert the following:

(2) EXCLUDED LIST.—The Commission shall identify and publish in a list, to be known as the ''excluded list'', the name of—

(A) each foreign country determined by the Commission under section 1305(a) to have taken action comparable to that taken by the United States to limit the greenhouse gas emissions of the foreign country; and

(B) each foreign country identified by the United Nations as among the least-developed developing countries.

On page 405, line 20, strike ''2014'' and insert ''2012''.

On page 413, strike lines 1 through 13 and insert the following:

(A) the national greenhouse gas intensity rate for each category of covered goods of each covered foreign country for the compliance year, as determined by the Administrator under paragraph (3); and

(B) the allowance adjustment factor for the industry sector of the covered foreign country that manufactured the covered goods entered into the United States, as determined by the Administrator under paragraph (4).

On page 414, lines 1 and 2, strike ''for the category of covered goods if'' and insert ''in relation to goods''.

Beginning on page 415, strike line 24 and all that follows through page 416, line 19, and insert the following:

(5) ANNUAL CALCULATION.—The Adminis-

On page 417, line 3, strike ''(7)'' and insert ''(6)''.

On page 417, line 10, strike ''(8)'' and insert ''(7)''.

On page 417, strike lines 17 through 20 and insert the following:

category of covered goods that are manufactured or processed in more than 1 foreign country.

On page 417, strike lines 21 through 23 and insert the following:

(B) REQUIREMENTS.—Except as provided in subparagraph (C), the procedures established

On page 418, strike line 1 and insert the following:

(i) to determine, for each covered

On page 418, strike line 11 and insert the following:

(ii) of the international reserve

On page 418, line 20, strike ''clause (i)'' and insert ''subparagraph (B)''.

On page 419, line 2, strike ''clause (i)'' and insert ''subparagraph (B)''.

On page 419, line 9, strike ''clause (i)'' and insert ''subparagraph (B)''.

On page 421, between lines 19 and 20, insert the following:

(3) LIMITATION.—Notwithstanding any other provisions of this Act, the quantity of foreign allowances and foreign credits submitted by a United States importer pursuant to this subsection shall not exceed 15 percent of the quantity of allowances that the importer is required to submit pursuant to subsection (d).

On page 422, line 5, strike ''2013'' and insert ''2011''.

On page 422, line 11, strike ''2017'' and insert ''2015''.

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**SA 4883.** Mr. SPECTER (for himself, Mr. COLEMAN, Ms. KLOBUCHAR, Ms. STABENOW, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 21, strike lines 6 and 7 and insert ''uses more than 5,000 metric tons of coal (except for coal or coke used in ironmaking, steelmaking, or steel recycling processes, or coal used to produce coke for ironmaking, steelmaking, or steel recycling processes) in the United States;''.

On page 21, strike line 21 and insert ''or gaseous fuel (except for gaseous fuel produced in ironmaking, steelmaking, or steel recycling processes), the combustion of which will,''.

On page 65, strike line 11 and insert ''the preceding calendar year through the use of coal (except for coal or coke used in ironmaking, steelmaking, or steel recycling processes, or coal used to produce coke for ironmaking, steelmaking, or steel recycling processes);''.

On page 65, strike line 15 and insert ''gaseous fuel (except for gaseous fuel produced in ironmaking, steelmaking, or steel recycling processes) that was, during the preceding calendar''.

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**SA 4884.** Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (a) of section 201 and insert the following:

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall establish a quantity of emission allowances for each of calendar years 2012 through 2050, as follows:

| Calendar Year | Quantity of emission allowances (in millions) |
|---|---|
| 2012 | 6,652 |
| 2013 | 6,592 |
| 2014 | 6,533 |
| 2015 | 6,474 |
| 2016 | 6,416 |
| 2017 | 6,358 |
| 2018 | 6,301 |
| 2019 | 6,245 |
| 2020 | 6,188 |
| 2021 | 6,097 |
| 2022 | 6,006 |
| 2023 | 5,915 |
| 2024 | 5,823 |
| 2025 | 5,732 |
| 2026 | 5,550 |
| 2027 | 5,367 |
| 2028 | 5,184 |
| 2029 | 5,002 |
| 2030 and each calendar year thereafter through calendar year 2050 | 4,819 |

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**SA 4885.** Mr. ISAKSON (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—HOMESTEAD OPEN SPACE PRESERVATION AND CONSERVATION**

**SEC. ___1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) SHORT TITLE.—This title may be cited as the ''Paul Coverdell Homestead Open Space Preservation and Conservation Act of 2008''.

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

**SEC. ___2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) Tax and economic policies have for a sustained period of time inadvertently created financial difficulties for our Nation's farming and ranching families that, among other negative impacts, has forced a significant number of them to liquidate their land holdings.

(2) This has particularly been the case in areas surrounding growing urban centers and resort destinations.

(3) This has fragmented many of our Nation's large landscapes and disrupted many communities that historically derived their cultural and economic identities from the land.

(4) The impact of this has been to deprive many areas of open green space, which in turn has not only negatively affected our human settlements through the resulting sprawl, but has also dramatically reduced the amount of sustaining habitat for our natural communities of plants and animals.

(b) PURPOSE.—The purpose of this title is to provide an economic mechanism that will restore and conserve our Nation's natural estate in the form of forests, farms, ranches, and wetlands while protecting our waterways and our forests and open space in a manner that keeps them subject to private ownership and supportive of our surviving but threatened natural communities of plants and animals.

**SEC. ___3. QUALIFIED CONSERVATION CREDIT.**

(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. QUALIFIED CONSERVATION CREDIT.**

''(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter, in the case of a qualified conservation organization, the amount of the taxpayer's qualified conservation expenditures for the taxable year.

''(b) QUALIFIED CONSERVATION EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation expenditures' means the sum of the qualified conservation organization's—

''(A) acquisition costs, plus

''(B) reserve funds.

''(2) ACQUISITION COSTS.—The term 'acquisition costs' means the sum of—

''(A) the lesser of—

''(i) the total of the amounts that a qualified conservation organization paid during the taxable year to acquire qualified real property interests exclusively for conservation purposes, or

''(ii) the aggregate appraised value of the qualified real property interests referred to in clause (i), plus

''(B) so much of the transaction costs reasonably incurred during the taxable year in connection with the acquisition of qualified real property interests as do not exceed 2 percent of the amount determined in subparagraph (A).

''(3) RESERVE FUNDS.—

''(A) IN GENERAL.—The term 'reserve funds' means amounts permanently set aside by a qualified conservation organization as an endowment to fund the future costs of enforcing and maintaining qualified real property interests acquired by the qualified conservation organization exclusively for conservation purposes.

''(B) ENDOWMENT.—The term 'endowment' means a restricted fund held in a segregated account, the income and realized appreciation of which may be expended solely for the purposes designated under this section, and which may be invested solely in qualified investments (as defined in section 501(c)(21)(D)(ii)).

''(C) LIMITATION.—The amount of reserve funds which may be taken into account under paragraph (1)(B) for the taxable year shall not exceed 8 percent of the acquisition costs for that taxable year.

''(c) QUALIFIED CONSERVATION ORGANIZATION.—For purposes of this section, the term 'qualified conservation organization' means, with respect to any taxable year—

''(1) an organization which—

''(A) is described in section 170(h)(3),

''(B) has been in existence for at least 2 calendar years immediately before the taxable year, and

''(C) was organized to serve primarily conservation purposes (as defined in section 170(h)(4)),

''(2) a limited partnership, all the general partners of which are organizations described in paragraph (1), or

''(3) a limited liability company, all the managers of which are organizations described in paragraph (1),

with respect to which neither the seller of the qualified real property interest nor any party related or subordinate to the seller (within the meaning of section 672(c)) would be a disqualified person (as defined in section 4946) if the organization were a private foundation.

''(d) QUALIFIED REAL PROPERTY INTEREST.—For purposes of this section, the term 'qualified real property interest' has the meaning given such term by section 170(h)(2)(C).

''(e) EXCLUSIVELY FOR CONSERVATION PURPOSES.—For purposes of this section, the term 'exclusively for conservation purposes' has the meaning given such term by section 170(h)(5), except that an acquisition shall not be treated as exclusively for conservation purposes unless the instrument conveying the qualified real property interest expressly provides that the conservation purposes may be enforced by both the attorney general of the State in which the real property is located and the qualified conservation organization.

''(f) APPRAISED VALUE.—For purposes of this section, the term 'appraised value' means the fair market value as determined by a qualified appraisal (as defined in section 155(a)(4) of the Deficit Reduction Act of 1984).

''(g) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) shall not exceed the taxpayer's liability for income tax (including unrelated business income tax) for the taxable year.

''(h) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO ACQUISITIONS OF QUALIFIED REAL PROPERTY INTERESTS LOCATED IN A STATE.—

''(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO ACQUISITION OF QUALIFIED REAL PROPERTY INTEREST.—

''(A) IN GENERAL.—The amount of the credit determined under subsection (a) for any taxable year with respect to the acquisition of any qualified real property interest shall not exceed the conservation credit dollar amount allocated to such acquisition under this subsection.

''(B) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the qualified real property interest is acquired.

''(C) ALLOCATION REDUCES AGGREGATE AMOUNT AVAILABLE TO AGENCY.—Any conservation credit dollar amount allocated to the acquisition of any qualified real property interest for any calendar year shall reduce the aggregate conservation credit dollar amount of the allocating conservation credit agency for such calendar year.

''(2) CONSERVATION CREDIT DOLLAR AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate conservation credit dollar amount which a conservation credit agency may allocate for any calendar year is the portion of the State conservation credit ceiling allocated under this paragraph for such calendar year to such agency.

''(B) STATE CEILING INITIALLY ALLOCATED TO STATE CONSERVATION CREDIT AGENCIES.—Except as provided in subparagraphs (F) and (G), the State conservation credit ceiling for each calendar year shall be allocated to the conservation credit agency of such State. If there is more than 1 conservation credit agency of a State, all such agencies shall be treated as a single agency.

''(C) STATE CONSERVATION CREDIT CEILING.—The State conservation credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

''(i) the lesser of—

''(I) an amount equal to the aggregate annual credit multiplied by a fraction, the numerator of which is the amount of land located in such State that is either used for agricultural purposes or constitutes private forest land and the denominator of which is the amount of land in all States that is either used for agricultural purposes or constitutes private forest land, or

''(II) an amount equal to 4 percent of the aggregate annual credit for that year,

''(ii) the amount (if any) allocated under subparagraph (F) to such State by the Secretary,

''(iii) the amount of the State conservation credit ceiling returned in the calendar year, plus

''(iv) the amount (if any) allocated under subparagraph (G) to such State by the Secretary.

''(D) AGGREGATE ANNUAL CREDIT.—For purposes of subparagraph (C)(i), the aggregate annual credit is determined in accordance with the following table:

| "For the calendar year ending: | The aggregate annual credit is: |
|---|---|
| December 31, 2009 | $4,000,000,000 |
| December 31, 2010 | $4,500,000,000 |
| December 31, 2011 | $5,000,000,000 |
| December 31, 2012 | $5,500,000,000 |
| December 31, 2013 | $6,000,000,000 |

''(E) STATE CONSERVATION CREDIT CEILING RETURNED.—For purposes of clause (iii), the amount of State conservation credit ceiling returned in the calendar year equals the conservation credit dollar amount previously allocated within the State to any proposed acquisition of a qualified real property interest which is not acquired within the period required by the terms of the allocation or to any proposed acquisition of a qualified real property interest with respect to which an allocation is canceled by mutual consent of the conservation credit agency and the qualified conservation organization receiving the allocation.

''(F) UNUSED AGGREGATE ANNUAL CREDIT.—Any portion of the aggregate annual credit for a calendar year that is not allocated to a State's conservation credit ceiling because of the 4 percent limitation under subparagraph (C)(i)(II) shall be allocated by the Secretary among the remaining States, subject to such 4 percent limitation, in proportion to their respective land used for agricultural purposes and private forest land.

''(G) UNUSED CONSERVATION CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(i) IN GENERAL.—The unused conservation credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

''(ii) UNUSED CONSERVATION CREDIT CARRYOVER.—For purposes of this paragraph, the unused conservation credit carryover of a State for any calendar year is the excess (if any) of the State conservation credit ceiling for such year (as defined in subparagraph (C)) over the aggregate conservation credit dollar amount allocated by such State for such year.

''(iii) FORMULA FOR ALLOCATION OF UNUSED CONSERVATION CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The Secretary shall determine the formula for allocating the unused conservation credit carryovers among the qualified States for a calendar year. In the determination of such formula, the Secretary shall assure that each qualified State in a calendar year shall receive some allocated amount of the unused conservation credit carryover for that year but that such carryovers shall otherwise be allocated among the qualified States in a manner that best realizes the purpose of this section.

''(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

''(I) which has adopted a statewide conservation plan designed to preserve the natural estate in the form of forests, farms, ranches, and wetlands located within the boundaries of that State,

''(II) which allocated its entire State conservation credit ceiling for the preceding calendar year, and

''(III) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

''(H) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

''(i) IN GENERAL.—The aggregate conservation credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State conservation credit ceiling for such calendar year as—

''(I) the land used for agricultural purposes and private forest land within a 25-mile radius of such city, bears to

''(II) the land used for agricultural purposes and private forest land in the entire State.

''(ii) COORDINATION WITH OTHER ALLOCATIONS.—In the case of any state which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to conservation credit agencies in such State other than constitutional home rule cities, the State conservation credit ceiling for any calendar year shall be reduced by the aggregate conservation credit dollar amounts determined for such year for all constitutional home rule cities in such State.

''(iii) CONSTITUTIONAL HOME RULE CITY.—For purposes of this subparagraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

''(I) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

''(J) LAND USED FOR AGRICULTURAL PURPOSES AND PRIVATE FOREST LAND.—For purposes of this paragraph—

''(i) LAND USED FOR AGRICULTURAL PURPOSES.—The term 'land used for agricultural purposes' means the number of acres classified as land in farms in the 1997 Census of Agriculture conducted by the United States Department of Agriculture.

''(ii) PRIVATE FOREST LAND.—The term 'private forest land' means the number of acres classified as private forest land in the 1997 Forest Inventory and Analysis conducted by the United States Forest Service, excluding any acres so classified therein that are also included as land in farms in the 1997 Census of Agriculture described in clause (i).

''(K) SECRETARY.—For purposes of this paragraph, the term 'Secretary' means the Secretary of Agriculture and the Secretary of the Interior, acting pursuant to jointly established rules and procedures.

''(3) SPECIAL RULES.—

''(A) INTERESTS MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A conservation credit agency may allocate its aggregate conservation credit dollar amount only with respect to acquisitions of qualified real property interests located in the jurisdiction of the governmental unit of which such agency is a part.

''(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate conservation credit dollar amounts allocated by a conservation credit agency for any calendar year exceed the portion of the State conservation credit ceiling allocated to such agency for such calendar year, the conservation credit dollar amounts so allocated shall be reduced (to the extent of such excess) for acquisitions of qualified real property interests in the reverse order in which the allocations of such amounts were made.

''(4) CONSERVATION CREDIT AGENCY.—For purposes of this subsection, the term 'conservation credit agency' means any agency authorized to carry out this subsection.

''(i) REGULATIONS.—Except as provided in subsection (h)(2)(K), the Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

''(j) TERMINATION.—Subparagraph (A) of subsection (h)(1) shall not apply to any amount allocated after December 31, 2013.''.

(b) RECOGNITION OF GAIN.—Section 1001 (relating to determination of amount of and recognition of gain or loss) is amended by adding at the end the following new subsection:

''(f) QUALIFIED REAL PROPERTY INTERESTS.—Gain shall be recognized on the sale of a qualified real property interest (as defined in section 30D(d)) to a qualified conservation organization (as defined in section 30D(c)) exclusively for conservation purposes (as defined in section 30D(e)) only to the extent that the amount realized on the sale exceeds the taxpayer's adjusted basis in the entire property to which the qualified real property interest relates.''.

(c) BASIS ADJUSTMENT.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ADJUSTMENTS TO BASIS OF CERTAIN REAL PROPERTY.—If the taxpayer has sold a qualified real property interest in a transaction to which section 1001(f) applies, then the taxpayer's basis in the remaining property shall be reduced (but not below zero) by the amount realized on the sale.''.

(d) CONFORMING AMENDMENTS.—

(1) PASSIVE LOSS RULES INAPPLICABLE.—Section 469(d)(2)(A)(i) is amended to read as follows:

''(i) subpart D (other than section 30D) of part IV of subchapter A, or''.

(2) UNRELATED BUSINESS INCOME TAX.—Section 511(a)(1) is amended by striking ''section 11.'' and inserting ''section 11, less any credits to which the organization is entitled under section 30D.''.

(3) DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION.—Section 170(e) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULE FOR CONTRIBUTIONS OF INTERESTS IN QUALIFIED CONSERVATION ORGANIZATIONS.—No deduction shall be allowed for the contribution of an interest in a qualified conservation organization (as defined in section 30D(c)) that has acquired 1 or more qualified real property interests in transactions to which section 30D applies.''.

(4) CLASSIFICATION AS PARTNERSHIP.—Section 761(a) is amended by adding at the end the following new sentence: ''Such term also includes an organization described in either section 30D(c)(2) or section 30D(c)(3).''.

(5) CLERICAL AMENDMENT.—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. Qualified conservation credit.''.

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

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**SA 4886.** Mr. GRAHAM (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___NUCLEAR ENERGY**

**Subtitle A—Financial Incentives**

**SEC. ___01. INVESTMENT TAX CREDIT FOR NUCLEAR POWER FACILITIES.**

(a) NEW CREDIT FOR NUCLEAR POWER FACILITIES.—Section 46 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) the nuclear power facility construction credit.''.

(b) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48B the following new section:

**''SEC. 48C. NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.**

''(a) IN GENERAL.—For purposes of section 46, the nuclear power facility construction credit for any taxable year is 10 percent of the qualified nuclear power facility expenditures with respect to a qualified nuclear power facility.

''(b) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(1) IN GENERAL.—Qualified nuclear power facility expenditures shall be taken into account for the taxable year in which the qualified nuclear power facility is placed in service.

''(2) COORDINATION WITH SUBSECTION (c).—The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified nuclear power facility shall be reduced (but not below zero) by any amount of qualified nuclear power facility expenditures taken into account under subsection (c) by the taxpayer or a predecessor of the taxpayer, to the extent any amount so taken into account under subsection (c) has not been required to be recaptured under section 50(a).

''(c) PROGRESS EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to take into account qualified nuclear power facility expenditures—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of a qualified nuclear power facility which is a self-constructed facility, no earlier than the taxable year for which such expenditures are properly chargeable to capital account with respect to such facility, and

''(B) ACQUIRED FACILITY.—In the case of a qualified nuclear facility which is not self-constructed property, no earlier than the taxable year in which such expenditures are paid.

''(2) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

''(A) COMPONENT PARTS, ETC.—Notwithstanding that a qualified nuclear power facility is a self-constructed facility, property described in paragraph (3)(B) shall be taken into account in accordance with paragraph (1)(B), and such amounts shall not be included in determining qualified nuclear power facility expenditures under paragraph (1)(A).

''(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer on a nonrecourse basis from the person constructing the facility for the taxpayer shall not be treated as an amount expended for such facility.

''(C) LIMITATION FOR FACILITIES OR COMPONENTS WHICH ARE NOT SELF-CONSTRUCTED.—

''(i) IN GENERAL.—In the case of a facility or a component of a facility which is not self-constructed, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the excess of—

''(I) the product of the overall cost to the taxpayer of the facility or component of a facility, multiplied by the percentage of completion of the facility or component of a facility, less

''(II) the amount taken into account under paragraph (1)(B) for all prior taxable years as to such facility or component of a facility.

''(ii) CARRYOVER OF CERTAIN AMOUNTS.—In the case of a facility or component of a facility which is not self-constructed, if for the taxable year the amount which (but for

clause (i)) would have been taken into account under paragraph (1)(B) exceeds the amount allowed by clause (i), then the amount of such excess shall increase the amount taken into account under paragraph (1)(B) for the succeeding taxable year without regard to this paragraph.

''(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made on the basis of engineering or architectural estimates or on the basis of cost accounting records, using information available at the close of the taxable year in which the credit is being claimed.

''(E) DETERMINATION OF OVERALL COST.—The determination under subparagraph (C) of the overall cost to the taxpayer of the construction of a facility shall be made on the basis of engineering or architectural estimates or on the basis of cost accounting records, using information available at the close of the taxable year in which the credit is being claimed.

''(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR PLACED IN SERVICE, ETC.—In the case of any qualified nuclear facility, no qualified nuclear facility expenditures shall be taken into account under this subsection for the earlier of—

''(i) the taxable year in which the facility is placed in service, or

''(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such facility or for any taxable year thereafter.

''(3) SELF-CONSTRUCTED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'self-constructed facility' means any facility if, at the close of the first taxable year to which the election in this subsection applies, it is reasonable to believe that more than 80 percent of the qualified nuclear facility expenditures for such facility will be made directly by the taxpayer.

''(B) TREATMENT OF COMPONENTS.—A component of a facility shall be treated as not self-constructed if, at the close of the first taxable year in which expenditures for the component are paid, it is reasonable to believe that the cost of the component is at least 5 percent of the expected cost of the facility.

''(4) ELECTION.—An election shall be made under this subsection for a qualified nuclear power facility by claiming the nuclear power facility construction credit for expenditures described in paragraph (1) on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

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

''(1) QUALIFIED NUCLEAR POWER FACILITY.—The term 'qualified nuclear power facility' means an advanced nuclear facility (as defined in section 45J(d)(2))—

''(A) which, when placed in service, will use nuclear power to produce electricity,

''(B) the construction of which is approved by the Nuclear Regulatory Commission on or before December 31, 2013, and

''(C) which is placed in service before January 1, 2021.

Such term shall not include any property which is part of a facility the production from which is allowed as a credit under section 45 for the taxable year or any prior taxable year.

''(2) QUALIFIED NUCLEAR POWER FACILITY EXPENDITURES.—

''(A) IN GENERAL.—The term 'qualified nuclear power facility expenditures' means any amount paid, accrued, or properly chargeable to capital account—

''(i) with respect to a qualified nuclear power facility,

''(ii) for which depreciation will be allowable under section 168 once the facility is placed in service, and

''(iii) which is incurred before the qualified nuclear power facility is placed in service or in connection with the placement of such facility in service.

''(B) PRE-EFFECTIVE DATE EXPENDITURES.—Qualified nuclear power facility expenditures do not include any expenditures incurred by the taxpayer before January 1, 2008, to the extent that, at the close of the first taxable year to which the election in subsection (c) applies, it is reasonable to believe that such expenditures will constitute more than 20 percent of the total qualified nuclear power facility expenditures.

''(3) DELAYS AND SUSPENSION OF CONSTRUCTION.—

''(A) IN GENERAL.—Except for sales or dispositions between entities which meet the ownership test in section 1504(a), for purposes of applying this section and section 50, a nuclear power facility that is under construction shall cease, with respect to the taxpayer, to be a qualified nuclear power facility as of the date on which the taxpayer sells, disposes of, or cancels, abandons, or otherwise terminates the construction of, the facility.

''(B) RESUMPTION OF CONSTRUCTION.—If a nuclear power facility that is under construction ceases, with respect to the taxpayer, to be a qualified nuclear power facility by reason of subparagraph (A) and work is subsequently resumed on the construction of such facility the qualified nuclear power facility expenditures shall be determined without regard to any delay or temporary termination of construction of the facility.

''(e) APPLICATION OF OTHER RULES.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section to the extent not inconsistent herewith.''.

(c) PROVISIONS RELATING TO CREDIT RECAPTURE.—

(1) PROGRESS EXPENDITURE RECAPTURE RULES.—

(A) BASIC RULES.—Subparagraph (A) of section 50(a)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) IN GENERAL.—If during any taxable year any building to which section 47(d) applied or any facility to which section 48C(c) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building or a qualified nuclear power facility, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building or facility.''.

(B) AMENDMENT TO EXCESS CREDIT RECAPTURE RULE.—Subparagraph (B) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or paragraph (2) of section 48C(b)'' after ''paragraph (2) of section 47(b)'';

(ii) inserting ''or section 48C(b)(1)'' after ''section 47(b)(1)''; and

(iii) inserting ''or facility'' after ''building''.

(d) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting '', and''; and

(3) by inserting after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualified nuclear power facility under section 48C.''.

(e) DENIAL OF DOUBLE BENEFIT.—Subsection (c) of section 45J of the Internal Revenue Code of 1986 (relating to other limitations) is amended by adding at the end the following new paragraph:

''(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and the lesser of ½ or a fraction—

''(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

''(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

''(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

''(iii) the aggregate amount of subsidized energy financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the project, and

''(iv) the amount of any other credit allowable with respect to any property which is part of the facility, and

''(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Nuclear power facility construction credit.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred and property placed in service in taxable years beginning after the date of enactment of this Act.

**SEC. ___02. 5-YEAR ACCELERATED DEPRECIATION FOR NEW NUCLEAR POWER FACILITIES.**

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to 5-year property) is amended—

(1) by striking ''and'' at the end of clause (v);

(2) by striking the period at the end of clause (vi) and inserting '', and''; and

(3) by adding at the end the following new clause:

''(vii) any qualified nuclear power facility described in paragraph (1) of section 48C(d) (without regard to the last sentence thereof) the original use of which commences with the taxpayer.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

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

**SEC. ___03. CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.**

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after section 48C the following new section:

**''SEC. 48D. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.**

''(a) ALLOWANCE OF CREDIT.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is certified under subsection (c) and—

''(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment,

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(D) which is placed in service on or before December 31, 2015.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to the rules of section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT AND QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT CERTIFICATION.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a program to consider and award certifications for property eligible for credits under this section as part of either a qualifying nuclear power manufacturing project or as qualifying nuclear power manufacturing equipment. The total amounts of credit that may be allocated under the program shall not exceed $100,000,000.

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

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including computers and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(b) CONFORMING AMENDMENTS.—

(1) ADDITIONAL INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting '', and''; and

(C) by inserting after paragraph (5) the following new paragraph:

''(6) the qualifying nuclear power manufacturing credit.''.

(2) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code, as amended by this Act, is amended—

(A) by striking ''and'' at the end of clause (iv);

(B) by striking the period at the end of clause (v) and inserting '', and''; and

(C) by inserting after clause (v) the following new clause:

''(vi) the basis of any property which is part of a qualifying nuclear power manufacturing project or qualifying nuclear power manufacturing equipment under section 48D.''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code, as amended by this Act, is amended by inserting after the item relating to section 48C the following new item:

''Sec. 48D. Qualifying nuclear power manufacturing credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property—

(1) the construction, reconstruction, or erection of which begins after the date of enactment of this Act; or

(2) which is acquired by the taxpayer on or after such date and not pursuant to a binding contract which was in effect on the day prior to such date.

**SEC. ___04. STANDBY SUPPORT FOR CERTAIN NUCLEAR PLANT DELAYS.**

(a) DEFINITIONS.—Section 638(a) of the Energy Policy Act of 2005 (42 U.S.C. 16014(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (7); and

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

''(4) FULL POWER OPERATION.—The term 'full power operation', with respect to a facility, means the earlier of—

''(A) the commercial operation date (or the equivalent under the terms of the financing documents for the facility); and

''(B) the date on which the facility achieves operation at an average nameplate capacity of 50 percent or more during any consecutive 30-day period after the completion of startup testing for the facility.

''(5) INCREASED PROJECT COSTS.—The term 'increased project costs' means the increased cost of constructing, commissioning, testing, operating, or maintaining a reactor prior to full-power operation incurred as a result of a delay covered by the contract, including costs of demobilization and remobilization, increased costs of equipment, materials and labor due to delay (including idle time), increased general and administrative costs, and escalation costs for completing construction.

''(6) LITIGATION.—The term 'litigation' means any—

''(A) adjudication in Federal, State, local, or tribal court; and

''(B) any administrative proceeding or hearing before a Federal, State, local, or tribal agency or administrative entity.''.

(b) CONTRACT AUTHORITY.—Section 638(b) of the Energy Policy Act of 2005 (42 U.S.C. 16014(b)) is amended by striking paragraph (1) and inserting the following:

''(1) CONTRACTS.—

''(A) IN GENERAL.—The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover at any 1 time a total of not more than 12 reactors, which shall consist of not less than 2 nor more than 4 different reactor designs, in accordance with paragraph (2).

''(B) REPLACEMENT CONTRACTS.—If any contract entered into under this section terminates or expires without a claim being paid by the Secretary under the contract, the Secretary may enter into a new contract under this section in replacement of the contract.''.

(c) COVERED COSTS.—Section 638(d) of the Energy Policy Act of 2005 (42. U.S.C. 16014(d)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) COVERAGE.—In the case of reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—

''(A) 100 percent of the covered costs of delay that occur after the initial 30-day period of covered delay; but

''(B) not more than $500,000,000 per contract.

''(3) COVERED DEBT OBLIGATIONS.—Debt obligations covered under subparagraph (A) of paragraph (5) shall include debt obligations incurred to pay increased project costs.''.

(d) DISPUTE RESOLUTION.—Section 638 of the Energy Policy Act of 2005 (42 U.S.C. 16014) is amended—

(1) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively; and

(2) by inserting after subsection (e) the following:

''(f) DISPUTE RESOLUTION.—

''(1) IN GENERAL.—Any controversy or claim arising out of or relating to any contract entered into under this section shall be determined by arbitration in Washington, DC, in accordance with the applicable Commercial Arbitration Rules of the American Arbitration Association.

''(2) TREATMENT OF DECISION.—A decision by an arbitrator shall be final and binding, and the United district court for Washington, DC, or the district in which the project is located shall have jurisdiction to enter judgment on the decision.''.

**SEC. ___05. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.**

(a) DEFINITION OF PROJECT COST.—Section 1701(1) of the Energy Policy Act of 2005 (42 U.S.C. 16511(1)) is amended by adding at the end the following:

''(6) PROJECT COST.—The term 'project cost' means all costs associated with the development, planning, design, engineering, permitting and licensing, construction, commissioning, startup, shakedown, and financing of a facility, including reasonable escalation and contingencies, the cost of and fees for the guarantee, reasonably required reserve funds, initial working capital, and interest during construction.''.

(b) TERMS AND CONDITIONS.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsections (b) and (c) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) sufficient amounts have been appropriated to cover the cost of the guarantee;

''(B) the Secretary has—

''(i) received from the borrower payment in full for the cost of the obligation; and

''(ii) deposited the payment into the Treasury; or

''(C) any combination of subparagraphs (A) and (B) that is sufficient to cover the cost of the obligation.

''(2) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c (b)) shall not apply to a loan guarantee made in accordance with paragraph (1).

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee—

''(A) 100 percent of the obligation for a facility that is the subject of a guarantee; or

''(B) a lesser amount, if requested by the borrower.

''(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total cost of the facility, as estimated at the time at which the guarantee is issued.''.

(c) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into a special fund in the Treasury to be known as the 'Incentives For Innovative Technologies Fund'; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.''.

**Subtitle B—Other Programs**

**SEC. ___11. NUCLEAR POWER 2010 PROGRAM.**

Section 952(c) of the Energy Policy Act of 2005 (42 U.S.C. 16272(c)) is amended by adding at the end the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the Nuclear Power 2010 Program—

''(A) $159,600,000 for fiscal year 2009;

''(B) $135,600,000 for fiscal year 2010;

''(C) $46,900,000 for fiscal year 2011; and

''(D) $2,200,000 for fiscal year 2012.''.

**SEC. ___12. NEXT GENERATION NUCLEAR PLANT PROJECT.**

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means a technology relating to any nongreenhouse gas-emitting alternative to the burning of fossil fuels for commercial applications using process heat to generate electricity, steam, hydrogen, and oxygen for activities such as—

''(i) refining;

''(ii) converting coal to synfuels and other hydrocarbon feedstocks; and

''(iii) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users, as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) shall be used to demonstrate the capability of the nuclear energy system to provide—

''(A) high-temperature process heat to be used for the production of electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended—

(1) in subsection (a), by adding at the end the following:

''(4) INTERACTION WITH INDUSTRY CONSORTIUM.—Any activity carried out under the Project by the industry consortium established under subsection (c) shall be carried out pursuant to a financial assistance agreement between the Secretary and the industry consortium.'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) LEAD LABORATORY.—

''(A) IN GENERAL.—The Idaho National Laboratory shall—

''(i) be the lead National Laboratory for the Project; and

''(ii) collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

''(B) PARTNERSHIP AGREEMENT.—

''(i) IN GENERAL.—The Secretary shall offer to enter into a partnership agreement with an entity or group of entities in the private sector under which the entity or group of entities shall assume responsibility for the management and operation of the Project.

''(ii) REQUIREMENT.—The partnership agreement under clause (i) shall contain a provision under which the entity or group of entities in the private sector may enter into contracts with entities in the public sector for the provision of services and products to that sector that represent typical commercial practices regarding terms and conditions for risk, accountability, performance, and quality.''; and

(B) in paragraph (2)(A)—

(i) by striking ''The Idaho National Laboratory'' and inserting ''The entity or group of entities referred to in paragraph (1)(B), acting through the Idaho National Laboratory pursuant to the partnership agreement entered into under that paragraph,''; and

(ii) by inserting ''licensing,'' after ''design,''; and

(3) by adding at the end the following:

''(c) INDUSTRY CONSORTIUM.—

''(1) ESTABLISHMENT.—The entity or group of entities referred to in subsection (b)(1)(B), acting through the Idaho National Laboratory pursuant to the partnership agreement entered into under that subsection, shall establish an industry consortium, to be composed of representatives of industrial end-users of electricity, steam, hydrogen, and oxygen.

''(2) DUTIES.—The industry consortium shall assume responsibility for management, development, design, licensing, construction, and initial operation of the Project, using commercial practices and project management processes and tools.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transportation and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking ''and hydrogen'' and inserting '', steam, hydrogen, and oxygen''; and

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY CONSORTIUM.—The industry consortium established under section 642(c) may enter into any necessary contracts with the Federal Government or entities in the international industrial sector for research and development, design, licensing, construction, and operating activities, services, and equipment.''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy, Science, and Technology and progress under the Project on an ongoing basis, in accordance with an applicable technology investment agreement between the Secretary and the industry consortium established under section 642(c); and''; and

(ii) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable technology investment agreement between the Secretary and the industry consortium established under section 642(c).''.

**SEC. ___13. NUCLEAR ENERGY WORKFORCE.**

Section 1101 of the Energy Policy Act of 2005 (42 U.S.C. 16411) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(C) nuclear utility and nuclear energy product and service industries.'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

''(d) WORKFORCE TRAINING.—

''(1) IN GENERAL.—The Secretary of Labor, in cooperation with the Secretary, shall promulgate regulations to implement a program to provide grants to enhance workforce training for any occupation in the workforce of the nuclear utility and nuclear energy products and services industries for which a shortage is identified or predicted in the report under subsection (b)(2).

''(2) CONSULTATION.—In carrying out this subsection, the Secretary of Labor shall consult with representatives of the nuclear utility and nuclear energy products and services industries, including organized labor organizations and multiemployer associations that jointly sponsor apprenticeship programs that provide training for skills needed in those industries.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor, working in coordination with the Secretary and the Secretary of Education, $20,000,000 for each of fiscal years 2008 through 2015 to carry out this subsection.''.

**SEC. ___14. INTERAGENCY WORKING GROUP TO PROMOTE DOMESTIC MANUFACTURING BASE FOR NUCLEAR COMPONENTS AND EQUIPMENT.**

(a) PURPOSES.—The purposes of this section are—

(1) to increase the competitiveness of the United States nuclear energy products and services industries;

(2) to identify the stimulus or incentives necessary to cause United States manufacturers of nuclear energy products to expand manufacturing capacity;

(3) to facilitate the export of United States nuclear energy products and services;

(4) to reduce the trade deficit of the United States through the export of United States nuclear energy products and services;

(5) to retain and create nuclear energy manufacturing and related service jobs in the United States;

(6) to integrate the objectives described in paragraphs (1) through (5), in a manner consistent with the interests of the United States, into the foreign policy of the United States; and

(7) to authorize funds for increasing United States capacity to manufacture nuclear energy products and supply nuclear energy services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an interagency working group (referred to in this section as the ''Working Group'') that, in consultation with representative industry organizations and manufacturers of nuclear energy products, shall make recommendations to coordinate the actions and programs of the Federal Government in order to promote increasing domestic manufacturing capacity and export of domestic nuclear energy products and services.

(2) COMPOSITION.—The Working Group shall be composed of—

(A) the Secretary of Energy (or a designee), who shall serve as Chairperson of the Working Group; and

(B) representatives of—

(i) the Department of Energy;

(ii) the Department of Commerce;

(iii) the Department of Defense;

(iv) the Department of Treasury;

(v) the Department of State;

(vi) the Environmental Protection Agency;

(vii) the United States Agency for International Development;

(viii) the Export-Import Bank of the United States;

(ix) the Trade and Development Agency;

(x) the Small Business Administration;

(xi) the Office of the United States Trade Representative; and

(xii) other Federal agencies, as determined by the President.

(c) DUTIES OF WORKING GROUP.—The Working Group shall—

(1) not later than 180 days after the date of enactment of this Act, identify the actions necessary to promote the safe development and application in foreign countries of nuclear energy products and services—

(A) to increase electricity generation from nuclear energy sources through development of new generation facilities;

(B) to improve the efficiency, safety, and reliability of existing nuclear generating facilities through modifications; and

(C) enhance the safe treatment, handling, storage, and disposal of used nuclear fuel;

(2) not later than 180 days after the date of enactment of this Act, identify—

(A) mechanisms (including tax stimuli for investment, loans and loan guarantees, and grants) necessary for United States companies to increase—

(i) the capacity of the companies to produce or provide nuclear energy products and services; and

(ii) exports of nuclear energy products and services; and

(B) administrative or legislative initiatives that are necessary —

(i) to encourage United States companies to increase the manufacturing capacity of the companies for nuclear energy products;

(ii) to provide technical and financial assistance and support to small and mid-sized businesses to establish quality assurance programs in accordance with domestic and international nuclear quality assurance code requirements;

(iii) to encourage, through financial incentives, private sector capital investment to expand manufacturing capacity; and

(iv) to provide technical assistance and financial incentives to small and mid-sized businesses to develop the workforce necessary to increase manufacturing capacity and meet domestic and international nuclear quality assurance code requirements;

(3) not later than 270 days after the date of enactment of this Act, submit to Congress a report that describes the findings of the Working Group under paragraphs (1) and (2), including recommendations for new legislative authority, as necessary; and

(4) encourage the agencies represented by membership in the Working Group—

(A) to provide technical training and education for international development personnel and local users in other countries;

(B) to provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide nuclear energy products and services;

(C) to develop nuclear energy projects in foreign countries;

(D) to provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and other appropriate personnel in order to provide information about nuclear energy products and services to foreign governments or other potential project sponsors;

(E) to support, through financial incentives, private sector efforts to commercialize and export nuclear energy products and services in accordance with the subsidy codes of the World Trade Organization; and

(F) to augment budgets for trade and development programs in order to support prefeasibility or feasibility studies for projects that use nuclear energy products and services.

(d) PERSONNEL AND SERVICE MATTERS.—The Secretary of Energy and the heads of agencies represented by membership in the Working Group shall detail such personnel and furnish such services to the Working Group, with or without reimbursement, as are necessary to carry out the functions of the Working Group.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Energy to carry out this section $20,000,000 for each of fiscal years 2009 through 2012.

**SEC. ___15. NUCLEAR POWER TECHNOLOGY FUND.**

There is established in the Treasury of the United States a fund to be known as the ''Nuclear Power Technology Fund'' of which funds shall be made available to carry out the purposes of section ___16 (relating to spent fuel recycling).

**SEC. ___16. SPENT FUEL RECYCLING PROGRAM.**

(a) PURPOSE.—It is the policy of the United States to recycle spent nuclear fuel to advance energy independence by maximizing the energy potential of nuclear fuel in a proliferation-resistant manner that reduces the quantity of waste dedicated to a permanent Federal repository.

(b) SPENT FUEL RECYCLING RESEARCH AND DEVELOPMENT FACILITY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin construction of a spent fuel recycling research and development facility.

(2) PURPOSE.—The facility described in paragraph (1) shall serve as the lead site for continuing research and development of advanced nuclear fuel cycles and separation technologies.

(3) SITE SELECTION.—In selecting a site for the facility, the Secretary shall give preference to a site that has—

(A) the most technically sound bid;

(B) a demonstrated technical expertise in spent fuel recycling; and

(C) community support.

(c) CONTRACTS.—The Secretary shall use amounts in the Nuclear Power Technology Fund, and such other amounts as are appropriated to carry out this section, to enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

(d) COMPETITIVE SELECTION.—Contracts awarded under subsection (c) shall be awarded on the basis of a competitive bidding process that—

(1) maximizes the competitive efficiency of the projects funded;

(2) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

(3) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.

(e) REGULATORY AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, in collaboration with the Secretary of Energy, shall promulgate regulations for the licensing of facilities for recovery and use of spent nuclear fuel that provide reasonable assurance that licenses issued for that purpose will not be counter to the defense, security, and national interests of the United States.

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**SA 4887.** Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—COMMERCIAL TRUCK FUEL SAVINGS DEMONSTRATION PROGRAM**

**SEC. 1801. FINDINGS.**

Congress finds that—

(1) diesel fuel prices have increased more than 50 percent during the 1-year period between May 2007 and May 2008;

(2) laws governing Federal highway funding effectively impose a limit of 80,000 pounds on the weight of vehicles permitted to use highways on the Interstate System;

(3) the administration of that provision in many States has forced heavy tractor-trailer and tractor-semitrailer combination vehicles traveling in those States to divert onto small State and local roads on which higher vehicle weight limits apply under State law;

(4) the diversion of those vehicles onto those roads increases fuel costs because of increased idling time and total travel time along those roads; and

(5) permitting heavy commercial vehicles, including tanker trucks carrying hazardous material and fuel oil, to travel on Interstate System highways when fuel prices are high would provide significant savings in the transportation of goods throughout the United States.

**SEC. 1802. DEFINITIONS.**

In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Transportation of a State.

(2) COVERED INTERSTATE SYSTEM HIGHWAY.—

(A) IN GENERAL.—The term ''covered Interstate System highway'' means a highway designated as a route on the Interstate System.

(B) EXCLUSION.—The term ''covered Interstate System highway'' does not include any portion of a highway that, as of the date of the enactment of this Act, is exempt from the requirements of subsection (a) of section 127 of title 23, United States Code, pursuant to a waiver under that subsection.

(3) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given the term in section 101(a) of title 23, United States Code.

**SEC. 1803. WAIVER OF HIGHWAY FUNDING REDUCTION RELATING TO WEIGHT OF VEHICLES USING INTERSTATE SYSTEM HIGHWAYS.**

(a) PROHIBITION RELATING TO CERTAIN VEHICLES.—Notwithstanding section 127(a) of title 23, United States Code, the total amount of funds apportioned to a State under section 104(b)(1) of that title for any period may not be reduced under section 127(a) of that title if a State permits a vehicle described in subsection (b) to use a covered Interstate System highway in the State in accordance with the conditions described in subsection (c).

(b) COMBINATION VEHICLES IN EXCESS OF 80,000 POUNDS.—A vehicle described in this subsection is a vehicle having a weight in excess of 80,000 pounds that—

(1) consists of a 3-axle tractor unit hauling a single trailer or semitrailer; and

(2) does not exceed any vehicle weight limitation that is applicable under the laws of a State to the operation of the vehicle on highways in the State that are not part of the Interstate System, as those laws are in effect on the date of enactment of this Act.

(c) CONDITIONS.—This section shall apply at any time at which the weighted average price of retail number 2 diesel in the United States is $3.50 or more per gallon.

(d) EFFECTIVE DATE AND TERMINATION.—This section shall not remain in effect—

(1) after the date that is 2 years after the date of enactment of this Act; or

(2) before the end of that 2-year period, after any date on which the Secretary of Transportation—

(A) determines that—

(i) operation of vehicles described in subsection (b) on covered Interstate System highways has adversely affected safety on the overall highway network; or

(ii) a Commissioner has failed faithfully to use the highway safety committee as described in section 1805(2)(A) or to collect the data described in section 1805(3); and

(B) publishes the determination, together with the date of termination of this section, in the Federal Register.

(e) CONSULTATION REGARDING TERMINATION FOR SAFETY.—In making a determination under subsection (d)(2)(A)(i), the Secretary of Transportation shall consult with the highway safety committee established by a Commissioner in accordance with section 1805.

**SEC. 1804. GAO TRUCK SAFETY DEMONSTRATION REPORT.**

The Comptroller General of the United States shall carry out a study of the effects of participation in the program under section 1803 on the safety of the overall highway network in States participating in that program.

**SEC. 1805. RESPONSIBILITIES OF STATES.**

For the purpose of section 1803, a State shall be considered to meet the conditions under this section if the Commissioner of the State—

(1) submits to the Secretary of Transportation a plan for use in meeting the conditions described in paragraphs (2) and (3);

(2) establishes and chairs a highway safety committee that—

(A) the Commissioner uses to review the data collected pursuant to paragraph (3); and

(B) consists of representatives of—

(i) agencies of the State that have responsibilities relating to highway safety;

(ii) municipalities of the State;

(iii) organizations that have evaluation or promotion of highway safety among the principal purposes of the organizations; and

(iv) the commercial trucking industry; and

(3) collects data on the net effects that the operation of vehicles described in section 1803(b) on covered Interstate System highways have on the safety of the overall highway network, including the net effects on single-vehicle and multiple-vehicle collision rates for those vehicles.

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**SA 4888.** Mr. INHOFE (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 6 and 7, insert the following:

**SEC. 530. ACTION UPON HIGHER DIESEL PRICES CAUSED BY THIS ACT.**

(a) DETERMINATION OF HIGHER DIESEL PRICES CAUSED BY THIS ACT.—Not less than annually, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator, shall determine whether implementation of this Act has caused the average retail price of diesel to increase since the date of enactment of this Act.

(b) ADMINISTRATOR ACTION.—Notwithstanding any other provision of this Act, upon a determination under subsection (a) of higher diesel prices caused by this Act, the Administrator shall suspend such provisions of this Act as the Administrator determines are necessary until implementation of the provisions no longer causes a diesel price increase.

**SA 4889.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 224, line 16, strike ''65'' and insert ''39''.

On page 226, line 11, strike ''30'' and insert ''18''.

On page 227, line 5, strike ''5'' and insert ''3''.

On page 228, strike line 13 and insert the following:

(j) GRANTS FOR TRAFFIC CONGESTION AND BOTTLENECK RELIEF PROJECTS.—

(1) IN GENERAL.—Of the funds deposited into the Transportation Sector Emission Reduction Fund each year pursuant to subsection (e), 40 percent shall be distributed to State governmental authorities to assist in reducing highway traffic congestion, through—

(A) programs to alleviate traffic congestion at documented highway bottlenecks; and

(B) programs to deploy systemic improvements to reduce traffic congestion.

(2) USE OF FUNDS.—A State governmental authority shall use funds received under paragraph (1) for—

(A) construction of new roadway or bridge capacity, including single-occupancy vehicle lanes;

(B) technology applications; and

(C) operational improvements.

(3) TERMS AND CONDITIONS.—Funds provided under this subsection shall be subject to the terms and conditions applicable to allocations of funds under section 103 of title 23, United States Code.

(4) COST SHARE.—The Federal share of the cost of an activity funded under this subsection shall not exceed 80 percent.

(k) CONDITION FOR RECEIPT OF FUNDS.—To be eli-

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**SA 4890.** Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—RENEWABLE ENERGY STANDARD**

**SEC. 1801. RENEWABLE PORTFOLIO STANDARD.**

(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

**''SEC. 610. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

''(a) DEFINITIONS.—In this section:

''(1) BASE AMOUNT OF ELECTRICITY.—The term 'base amount of electricity' means the total amount of electricity sold by an electric utility to electric consumers in a calendar year, excluding electricity generated by a hydroelectric facility (including a pumped storage facility, but excluding incremental hydropower).

''(2) DISTRIBUTED GENERATION FACILITY.—The term 'distributed generation facility' means a facility at a customer site.

''(3) EXISTING RENEWABLE ENERGY.—The term 'existing renewable energy' means, except as provided in paragraph (7)(B), electric

energy generated at a facility (including a distributed generation facility) placed in service prior to January 1, 2001, from solar, wind, or geothermal energy, ocean energy, biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)), landfill gas, or municipal solid waste.

''(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

''(5) INCREMENTAL GEOTHERMAL PRODUCTION.—

''(A) IN GENERAL.—The term 'incremental geothermal production' means for any year the excess of—

''(i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy; over

''(ii) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of enactment of this section after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

''(B) SPECIAL RULE.—A facility described in subparagraph (A) that was placed in service at least 7 years before the date of enactment of this section shall, commencing with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

''(6) INCREMENTAL HYDROPOWER.—

''(A) IN GENERAL.—The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions made on or after January 1, 2001, or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date.

''(B) EXCLUSION.—The term 'incremental hydropower' does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

''(C) MEASUREMENT.—Efficiency improvements and capacity additions shall be measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission.

''(7) NEW RENEWABLE ENERGY.—The term 'new renewable energy' means—

''(A) electric energy generated at a facility (including a distributed generation facility) placed in service on or after January 1, 2001, from—

''(i) solar, wind, or geothermal energy or ocean energy;

''(ii) biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b));

''(iii) landfill gas;

''(iv) incremental hydropower; or

''(v) municipal solid waste; and

''(B) for electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section—

''(i) the additional energy above the average generation during the 3-year period ending on the date of enactment of this section at the facility from—

''(I) solar or wind energy or ocean energy;

''(II) biomass (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b));

''(III) landfill gas;

''(IV) incremental hydropower; or

''(V) municipal solid waste; and

''(ii) incremental geothermal production.

''(8) OCEAN ENERGY.—The term 'ocean energy' includes current, wave, tidal, and thermal energy.

''(b) RENEWABLE ENERGY REQUIREMENT.—

''(1) IN GENERAL.—Each electric utility that sells electricity to electric consumers shall obtain a percentage of the base amount of electricity the electric utility sells to electric consumers in any calendar year from new renewable energy or existing renewable energy.

''(2) MINIMUM ANNUAL PERCENTAGE.—The percentage obtained in a calendar year shall not be less than the amount specified in the following table:

| "Calendar year: | Minimum annual percentage: |
|---|---|
| 2010 | 2 |
| 2011 | 4 |
| 2012 | 6 |
| 2013 | 8 |
| 2014 | 10 |
| 2015 | 11 |
| 2016 | 12 |
| 2017 | 13 |
| 2018 | 14 |
| 2019 | 15 |
| 2020 | 16 |
| 2021 | 17 |
| 2022 | 18 |
| 2023 | 19 |
| 2024 | 20. |

''(3) MEANS OF COMPLIANCE.—An electric utility shall meet the requirements of this subsection by—

''(A) submitting to the Secretary renewable energy credits issued under subsection (c);

''(B) making alternative compliance payments to the Secretary at the rate of 2 cents per kilowatt hour (as adjusted for inflation under subsection (h)); or

''(C) conducting a combination of activities described in subparagraphs (A) and (B).

''(c) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

''(1) IN GENERAL.—Not later than July 1, 2009, the Secretary shall establish a renewable energy credit trading program under which each electric utility shall submit to the Secretary renewable energy credits to certify the compliance of the electric utility with respect to obligations under subsection (b).

''(2) ADMINISTRATION.—As part of the program, the Secretary shall—

''(A) issue tradeable renewable energy credits to generators of electric energy from new renewable energy;

''(B) issue nontradeable renewable energy credits to generators of electric energy from existing renewable energy;

''(C) issue renewable energy credits to electric utilities associated with State renewable portfolio standard compliance mechanisms pursuant to subsection (i);

''(D) ensure that a kilowatt hour, including the associated renewable energy credit, shall be used only once for purposes of compliance with this section;

''(E) allow double credits for generation from facilities on Indian land, and triple credits for generation from small renewable distributed generators (meaning those no larger than 1 megawatt); and

''(F) ensure that, with respect to a purchaser that as of the date of enactment of this section has a purchase agreement from a renewable energy facility placed in service before that date, the credit associated with the generation of renewable energy under the contract is issued to the purchaser of the electric energy.

''(3) DURATION.—A credit described in subparagraph (A) or (B) of paragraph (2) may only be used for compliance with this section during the 3-year period beginning on the date of issuance of the credit.

''(4) TRANSFERS.—An electric utility that holds credits in excess of the quantity of credits needed to comply with subsection (b) may transfer the credits to another electric utility in the same utility holding company system.

''(5) DELEGATION OF MARKET FUNCTION.—The Secretary may delegate to an appropriate entity that establishes markets the administration of a national tradeable renewable energy credit market for purposes of creating a transparent national market for the sale or trade of renewable energy credits.

''(d) ENFORCEMENT.—

''(1) CIVIL PENALTIES.—Any electric utility that fails to meet the compliance requirements of subsection (b) shall be subject to a civil penalty.

''(2) AMOUNT OF PENALTY.—Subject to paragraph (3), the amount of the civil penalty shall be equal to the product obtained by multiplying—

''(A) the number of kilowatt-hours of electric energy sold to electric consumers in violation of subsection (b); by

''(B) the greater of—

''(i) 2 cents (adjusted for inflation under subsection (h)); or

''(ii) 200 percent of the average market value of renewable energy credits during the year in which the violation occurred.

''(3) MITIGATION OR WAIVER.—

''(A) IN GENERAL.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility is unable to comply with subsection (b) for reasons outside of the reasonable control of the utility.

''(B) REDUCTION.—The Secretary shall reduce the amount of any penalty determined under paragraph (2) by an amount paid by the electric utility to a State for failure to comply with the requirement of a State renewable energy program if the State requirement is greater than the applicable requirement of subsection (b).

''(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

''(e) STATE RENEWABLE ENERGY ACCOUNT PROGRAM.—

''(1) IN GENERAL.—Not later than December 31, 2008, the Secretary of the Treasury shall establish a State renewable energy account in the Treasury.

''(2) DEPOSITS.—

''(A) IN GENERAL.—All money collected by the Secretary from alternative compliance payments and the assessment of civil penalties under this section shall be deposited into the renewable energy account established under paragraph (1).

''(B) SEPARATE ACCOUNT.—The State renewable energy account shall be maintained as a separate account in the Treasury and shall not be transferred to the general fund of the Treasury.

''(3) USE.—Proceeds deposited in the State renewable energy account shall be used by the Secretary, subject to appropriations, for a program to provide grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the use of electricity at customer sites such as solar water heating.

''(4) ADMINISTRATION.—The Secretary may issue guidelines and criteria for grants awarded under this subsection. State energy offices receiving grants under this section

shall maintain such records and evidence of compliance as the Secretary may require.

''(5) PREFERENCE.—In allocating funds under this program, the Secretary shall give preference—

''(A) to States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

''(B) to State programs to stimulate or enhance innovative renewable energy technologies.

''(f) RULES.—The Secretary shall issue rules implementing this section not later than 1 year after the date of enactment of this section.

''(g) EXEMPTIONS.—This section shall not apply in any calendar year to an electric utility—

''(1) that sold less than 4,000,000 megawatt-hours of electric energy to electric consumers during the preceding calendar year; or

''(2) in Hawaii.

''(h) INFLATION ADJUSTMENT.—Not later than December 31, 2008, and December 31 of each year thereafter, the Secretary shall adjust for United States dollar inflation (as measured by the Consumer Price Index)—

''(1) the price of a renewable energy credit under subsection (c)(2); and

''(2) the amount of the civil penalty per kilowatt-hour under subsection (d)(2).

''(i) STATE PROGRAMS.—

''(1) IN GENERAL.—Nothing in this section diminishes any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting renewable energy, but, except as provided in subsection (d)(3), no such law or regulation shall relieve any person of any requirement otherwise applicable under this section.

''(2) COORDINATION.—The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Secretary, in consultation with States, shall promulgate regulations to ensure that an electric utility subject to the requirements of this section that is also subject to a State renewable energy standard receives renewable energy credits in relation to equivalent quantities of renewable energy associated with compliance mechanisms, other than the generation or purchase of renewable energy by the electric utility, including the acquisition of certificates or credits and the payment of taxes, fees, surcharges, or other financial compliance mechanisms by the electric utility or a customer of the electric utility, directly associated with the generation or purchase of renewable energy.

''(B) PROHIBITION ON DOUBLE COUNTING.—The regulations promulgated under this paragraph shall ensure that a kilowatt hour associated with a renewable energy credit issued pursuant to this subsection shall not be used for compliance with this section more than once.

''(j) RECOVERY OF COSTS.—

''(1) IN GENERAL.—The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility recovers all prudently incurred costs associated with compliance with this section.

''(2) APPLICABLE LAW.—A regulation under paragraph (1) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(k) WIND ENERGY DEVELOPMENT STUDY.—The Secretary, in consultation with appropriate Federal and State agencies, shall conduct, and submit to Congress a report describing the results of, a study on methods to increase transmission line capacity for wind energy development.

''(l) SUNSET.—This section expires on December 31, 2040.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. prec. 2601) is amended by adding at the end of the items relating to title VI the following:

''Sec. 609. Rural and remote communities electrification grants.

''Sec. 610. Federal renewable portfolio standard.''.

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**SA 4891.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Sense of the Senate Regarding Excessive Big Oil Chief Executive Officer Compensation**

**SEC. 1771. SENSE OF THE SENATE.**

(a) FINDINGS.—The Senate finds that—

(1) the national average price for a gallon of gasoline has increased from the price of $1.47 per gallon during the week President George W. Bush took office in January 2001 to, as of the date of enactment of this Act, an all-time high of approximately $4.00 per gallon;

(2) the price of a barrel of oil has increased during the administration of George W. Bush, from $30.63 in January 2001 to as high as $135 in May 2008;

(3) the average household with children will spend approximately $5,030 on transportation fuel costs in 2008, an increase of 164 percent or $3,127 more than 2001 transportation fuel costs;

(4) while the price of gasoline has continued to skyrocket, median household income, adjusted for inflation, has declined by $982 from $50,566 in 2000 to $49,584 in 2006, making it harder for families of the United States to afford the basic necessities of life;

(5) while the price of gasoline has continued to skyrocket, 36,500,000 citizens of the United States lived in poverty during 2006, an increase of 4,900,000 above the 2000 level, the year before President Bush took office;

(6) 63 percent of respondents of a March 2008 Gallup Poll stated that high gasoline prices have caused hardships for the respondents;

(7) according to a Gallup Poll carried out on June 3, 2008, 55 percent of the citizens of the United States stated that they are worse off financially than the prior year, marking the first time in the 32-year history of the Gallop Poll that more than 50 percent of the respondents of that question provided a negative assessment;

(8) while the citizens of the United States continue to pay record-breaking prices at the gas pump, the chief executive officers of big oil companies have been rewarded with excessive retirement and annual compensation packages;

(9) in 2005, Lee Raymond, the former chief executive officer of Exxon-Mobil, received a total retirement package of at least $398,000,000, among the richest compensation packages in United States corporate history;

(10) in 2006, Ray Irani, the chief executive officer of Occidental Petroleum (the largest oil producer in the State of Texas), received over $400,000,000 in total compensation, 1 of the largest single-year payouts in United States corporate history;

(11) in 2007, David J. O'Reilly, the chief executive officer of Chevron, received $34,610,000 in total compensation;

(12) in 2007, Rex Tillerson, the chief executive officer of ExxonMobil, received $21,000,000 in total compensation;

(13) in 2007, Jim Mulva, the chief executive officer of ConocoPhillips, received $15,100,000 in total compensation; and

(14) in 2007, Bob R. Simpson, the chief executive officer of XTO Energy (1 of the largest independent oil and gas producers in the United States), received $72,700,000 in total compensation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that at a time during which the citizens of the United States continue to pay record-breaking prices for gasoline, chief executive officers of big oil companies should not receive for total annual compensation an amount greater than $5,000,000.

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**SA 4892.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Margin Level for Crude Oil**

**SEC. 1771. MARGIN LEVEL FOR CRUDE OIL.**

Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

''(G) MARGIN LEVEL FOR CRUDE OIL.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 90 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations to increase by not less than 25 percent the margin level of crude oil traded on any trading facility or as part of any agreement, contract, or transaction covered by this Act.

''(ii) EXCEPTION.—The Commission shall not increase the margin level of crude oil if—

''(I) the buyer and seller of the crude oil are primarily engaged in the business of extracting, refining, transporting, or selling crude oil (including products refined from crude oil); or

''(II) the buyer or seller of the crude oil is a retail consumer or other final user of the crude oil or a product refined from the crude oil (including an entity that uses the crude oil in a manufacturing process) that is the subject of any agreement, contract, or transaction covered by this Act.''.

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**SA 4893.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Commodity Futures**

**SEC. 1771. MARGIN LEVEL FOR CRUDE OIL.**

Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

''(G) MARGIN LEVEL FOR CRUDE OIL.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 90 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations to increase by not less than 25 percent the margin level of crude oil traded on any trading facility or as part of any agreement, contract, or transaction covered by this Act.

''(ii) EXCEPTION.—The Commission shall not increase the margin level of crude oil if—

''(I) the buyer and seller of the crude oil are primarily engaged in the business of extracting, refining, transporting, or selling crude oil (including products refined from crude oil); or

''(II) the buyer or seller of the crude oil is a retail consumer or other final user of the crude oil or a product refined from the crude oil (including an entity that uses the crude oil in a manufacturing process) that is the subject of any agreement, contract, or transaction covered by this Act.''.

**SEC. 1772. ENERGY COMMODITIES AND RELATED SWAPS TRADED ON FOREIGN BOARDS OF TRADE.**

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

''(j) ENERGY COMMODITIES AND RELATED SWAPS TRADED ON FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—Notwithstanding paragraphs (3) through (5) of subsection (h), agreements, contracts, or transactions, including futures, swaps, and derivatives transactions that serve a price discovery function for energy commodities delivered in the United States, that are facilitated or transacted on any contract market or electronic trading facility that is regulated by a foreign regulatory agency, shall—

''(A) register as a designated contract market pursuant to section 4(a); and

''(B) be subject to the rules and regulations of the Commission, including disclosure requirements, that apply to designated contract markets.

''(2) REGISTRATION.—A contract market or electronic trading facility that is subject to paragraph (1) shall register with the Commission not later than 180 days after the date of enactment of this subsection.

''(3) INAPPLICABILITY OF EXEMPTIONS.—Any exemption from registration, including no action letters, issued by the Commission or the staff of the Commission shall not be applicable after this date.''.

**SEC. 1773. CONFLICTS OF INTEREST IN COMMODITIES MARKETS.**

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by section 1772) is amended by adding at the end the following:

''(k) CONFLICTS OF INTEREST IN COMMODITIES MARKETS.—

''(1) IN GENERAL.—The Commission or the Securities and Exchange Commission, as appropriate, shall establish and enforce rules to eliminate or minimize conflicts of interest in transactions in commodities traded on or subject to the rules of a board of trade, and establish a process for resolving such conflicts of interest, including rules that (with respect to a commodity that is traded on or subject to the rules of a board of trade by any covered person)—

''(A) prohibit the crude oil research division of the covered person that is responsible for predicting the price of crude oil from any communications between the division and energy traders;

''(B) prohibit energy traders from conducting transactions that relate to the energy infrastructure of the covered person;

''(C) prohibit a covered person from engaging in energy derivative transactions or energy futures contracts on behalf of themselves or the clients of the covered person;

''(D) prohibit investment banks from owning energy commodities;

''(E) require investment banks to disclose income from oil and gas trading activities;

''(F) prohibit investment banks from having an interest in an energy exchange;

''(G) prohibit United States investors from trading on an unregulated exchange; and

''(H) require investment banks to disclose the long and short positions of the banks in the filings of the bank.

''(2) PENALTY.—An individual or entity that (as determined by the Commission or the Securities and Exchange Commission, as appropriate) repeatedly violates an applicable provision of this subsection or a rule or regulation promulgated pursuant to this subsection shall be subject to a fine of $1,000,000, imprisoned for not more than 10 years, or both, for each violation.''.

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**SA 4894.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Commodity Futures**

**SEC. 1771. ENERGY COMMODITIES AND RELATED SWAPS TRADED ON FOREIGN BOARDS OF TRADE.**

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

''(j) ENERGY COMMODITIES AND RELATED SWAPS TRADED ON FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—Notwithstanding paragraphs (3) through (5) of subsection (h), any contract market or electronic trading facility that is regulated by a foreign regulatory agency and that facilitates, or on which is transacted, any agreements, contracts, or transactions, including futures, swaps, and derivatives transactions, that serve a price discovery function for energy commodities delivered in the United States, shall—

''(A) register as a designated contract market pursuant to section 4(a); and

''(B) be subject to the rules and regulations of the Commission, including disclosure requirements, that apply to designated contract markets.

''(2) REGISTRATION.—Each contract market and electronic trading facility that is subject to paragraph (1) shall register with the Commission not later than 180 days after the date of enactment of this subsection.

''(3) INAPPLICABILITY OF EXEMPTIONS.—Any exemption from registration, including no action letters, issued by the Commission or the staff of the Commission shall not be applicable after the date of enactment of this subsection.''.

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**SA 4895.** Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Commodity Futures**

**SEC. 1771. CONFLICTS OF INTEREST IN COMMODITIES MARKETS.**

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

''(j) CONFLICTS OF INTEREST IN COMMODITIES MARKETS.—

''(1) IN GENERAL.—The Commission or the Securities and Exchange Commission, as appropriate, shall establish and enforce rules to eliminate or minimize conflicts of interest in transactions in commodities traded on or subject to the rules of a board of trade, and establish a process for resolving such conflicts of interest, including rules that (with respect to a commodity that is traded on or subject to the rules of a board of trade by any covered person)—

''(A) prohibit the crude oil research division of the covered person that is responsible for predicting the price of crude oil from any communications between the division and energy traders;

''(B) prohibit energy traders from conducting transactions that relate to the energy infrastructure of the covered person;

''(C) prohibit a covered person from engaging in energy derivative transactions or energy futures contracts on behalf of themselves or the clients of the covered person;

''(D) prohibit investment banks from owning energy commodities;

''(E) require investment banks to disclose income from oil and gas trading activities;

''(F) prohibit investment banks from having an interest in an energy exchange;

''(G) prohibit United States investors from trading on an unregulated exchange; and

''(H) require investment banks to disclose the long and short positions of the banks in the filings of the bank.

''(2) PENALTY.—An individual or entity that (as determined by the Commission or the Securities and Exchange Commission, as appropriate) repeatedly violates an applicable provision of this subsection or a rule or regulation promulgated pursuant to this subsection shall be subject to a fine of $1,000,000, imprisoned for not more than 10 years, or both, for each violation.''.

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**SA 4896.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. NATIONAL COMMISSION ON ENERGY POLICY AND GLOBAL CLIMATE CHANGE.**

(a) ESTABLISHMENT.—There is established a commission, to be known as the ''National Commission on Energy Policy and Global Climate Change'' (referred to in this section as the ''Commission'').

(b) PURPOSES.—The purposes of the Commission are—

(1) to examine all aspects of the national energy situation and related policies in order to develop a comprehensive, economy-wide policy approach to energy issues;

(2) to examine relevant data relating to global climate change, including impacts of human activities; and

(3) to report to Congress and the President the findings, conclusions, and recommendations of the Commission for legislation to establish a comprehensive national energy policy that ensures national energy security and significantly reduces greenhouse gas emissions in order to address global climate change without damaging the economy.

(c) COMPOSITION.—

(1) MEMBERSHIP.—The Commission shall be composed of 12 members, of whom—

(A) 1 shall be jointly appointed by the Majority Leader of the Senate and the Speaker of the House of Representatives, who shall serve as Chairperson of the Commission;

(B) 1 shall be jointly appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives, who shall serve as Vice-Chairperson of the Commission;

(C) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Environment and Public Works of the Senate;

(D) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Natural Resources of the House of Representatives, in consultation with the Select Committee on Energy Independence and Global Warming of the House of Representatives;

(E) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Energy and Natural Resources of the Senate;

(F) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Energy and Commerce of the House of Representatives;

(G) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Commerce, Science, and Transportation of the Senate;

(H) 1 shall be jointly appointed by the Chairpersons and Ranking Members of the Committees on Science and Technology and Transportation and Infrastructure of the House of Representatives;

(I) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(J) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Agriculture of the House of Representatives;

(K) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Finance of the Senate; and

(L) 1 shall be jointly appointed by the Chairperson and Ranking Member of the Committee on Ways and Means of the House of Representatives.

(2) QUALIFICATIONS.—

(A) POLITICAL PARTY AFFILIATION.—An appointment of a member of the Commission under paragraph (1) shall be made—

(i) without regard to the political party affiliation of the member; and

(ii) on a nonpartisan basis.

(B) NONGOVERNMENTAL APPOINTEES.—A member appointed to the Commission under paragraph (1) shall not be an officer or employee of—

(i) the Federal Government; or

(ii) any unit of State or local government.

(C) SENSE OF CONGRESS REGARDING OTHER QUALIFICATIONS.—It is the sense of Congress that members appointed to the Commission under paragraph (1) should be prominent, nationally recognized United States citizens, with a significant depth of experience in professions such as governmental service, science, energy, economics, the environment, agriculture, manufacturing, public administration, and commerce (including aviation matters).

(3) DEADLINE FOR APPOINTMENTS.—All members of the Commission shall be appointed by not later than 90 days after the date of enactment of this Act.

(4) MEETINGS.—

(A) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission as soon as practicable, and not later than 60 days, after the date on which all members of the Commission are appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting under subparagraph (A), the Commission shall meet at the call of—

(i) the Chairperson; or

(ii) a majority of the members of the Commission.

(5) QUORUM.—7 members of the Commission shall constitute a quorum.

(6) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner in which the original appointment was made.

(d) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) study and evaluate relevant data, studies, and proposals relating to national energy policies and policies to address global climate change, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure relating to—

(i) domestic production and consumption of energy from all sources and imported sources of energy, particularly oil and natural gas;

(ii) domestic and international oil and gas exploration, production, refining, and pipelines and other forms of infrastructure and transportation;

(iii) energy markets, including energy market speculation, transparency, and oversight;

(iv) the structure of the energy industry, including the impacts of consolidation, antitrust, and oligopolistic concerns, market manipulation and collusion concerns, and other similar matters;

(v) electricity production and transmission issues, including fossil fuels, renewable energy, energy efficiency, and energy conservation matters;

(vi) transportation fuels, biofuels and other renewable fuels, fuel cells, motor vehicle power systems, efficiency, and conservation; and

(vii) nuclear energy, including matters relating to permitting, regulation, and legal liability;

(B) examine relevant data relating to global climate change and the national and global environment, including—

(i) the impacts on the global climate system and the environment of human activities, particularly greenhouse gas emissions and pollution; and

(ii) the consequences of global climate change on humans and other species, particularly consequences to the national security, economy, and public health and safety of the United States;

(C) identify, review, and evaluate the lessons of past energy policies, energy crises, environmental problems, and attempts to address global climate change;

(D) evaluate proposals for energy and global climate change policies, including proposals developed by Members of Congress, congressional Committees, relevant Federal, regional, and State government agencies, nongovernmental organizations, independent organizations, and international organizations, with the goal of expanding those proposals to develop a blueprint for comprehensive energy and global climate change legislation; and

(E) submit to Congress and the President the reports required under subsection (h).

(2) RELATIONSHIP TO EFFORTS OF CONGRESS.—The Commission shall—

(A) review the information compiled by, and the findings, conclusions, and recommendations of, congressional Committees of relevant jurisdiction; and

(B) based on the results of the review, pursue any appropriate inquiry that the Commission determines to be necessary to carry out the duties of the Commission under paragraph (1).

(e) POWERS.—

(1) IN GENERAL.—

(A) RULES.—The Commission may establish such rules relating to administrative procedures as are reasonably necessary to enable the Commission to carry out this section.

(B) HEARINGS AND EVIDENCE.—

(i) IN GENERAL.—The Commission or any subcommittee or member of the Commission may, for the purpose of carrying out this section—

(I) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission determines to be appropriate; and

(II) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission determines to be necessary.

(ii) PUBLIC REQUIREMENT.—In accordance with applicable laws (including regulations) and Executive orders regarding protection of information acquired by the Commission, the Commission shall ensure that, to the maximum extent practicable—

(I) all hearings of the Commission are open to the public, including by—

(aa) providing live and recorded public access to hearings on the Internet; and

(bb) publishing all transcripts and records of hearings at such time and in such manner as is agreed to by the majority of members of the Commission; and

(II) all findings and reports of the Commission are made public.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) on agreement of the Chairperson and Vice-Chairperson of the Commission; or

(II) on the affirmative vote of at least 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), a subpoena issued under this paragraph may be—

(I) issued under the signature of the Chairperson of the Commission (or a designee who is a member of the Commission); and

(II) served by any individual or entity designated by the Chairperson or designee.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed individual or entity resides, is served, or may be found, or to which the subpoena is returnable, may issue an order requiring the individual or entity to appear at a designated place to testify or to produce documentary or other evidence.

(ii) FAILURE TO OBEY.—

(I) IN GENERAL.—A failure to obey the order of a United States district court under clause (i) may be punished by the United States district court as a contempt of the court.

(II) ENFORCEMENT BY COMMISSION.—In the case of failure of a witness to comply with a subpoena, or to testify if summoned pursuant to this paragraph—

(aa) the Commission, by majority vote, may certify to the appropriate United States Attorney a statement of fact regarding the failure; and

(bb) the United States Attorney may bring the matter before the grand jury for action in accordance with sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 et seq.).

(3) CONTRACTING.—To the extent amounts are made available in appropriations Acts, the Commission may enter into contracts to assist the Commission in carrying out the duties of the Commission under this section.

(4) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers to be necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the

head of the agency shall provide the information to the Commission.

(C) TREATMENT.—Information provided to the Commission under this paragraph shall be received, handled, stored, and disseminated by members and staff of the Commission in accordance with applicable law (including regulations) and Executive orders.

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support and other services to assist the Commission in carrying out the duties of the Commission under this section.

(B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance described in subparagraph (A), any other Federal department or agency may provide to the Commission such services, funds, facilities, staff, and other support as the head of the department or agency determines to be appropriate.

(6) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(7) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property only in accordance with the ethical rules applicable to congressional officers and employees.

(8) VOLUNTEER SERVICES.—

(A) IN GENERAL.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use the services of volunteers serving without compensation.

(B) REIMBURSEMENT.—The Commission may reimburse a volunteer for office supplies, local travel expenses, and other travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code.

(C) TREATMENT.—A volunteer of the Commission shall be considered to be an employee of the Federal Government in carrying out activities for the Commission, for purposes of—

(i) chapter 81 of title 5, United States Code;

(ii) chapter 11 of title 18, United States Code; and

(iii) chapter 171 of title 28, United States Code.

(f) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(D) STATUS.—The executive director and any employee (not including any member) of the Commission shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(E) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily rate paid to an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) REPORTS.—

(1) INTERIM REPORTS.—Not later than June 1, 2009, and thereafter as the Commission determines to be appropriate, the Commission shall submit to Congress and the President an interim report describing the findings and recommendations agreed to by a majority of members of the Commission during the period beginning on the date on which, as applicable—

(A) all members of the Commission are appointed under subsection (c); or

(B) the most recent interim report was submitted under this paragraph.

(2) FINAL REPORT.—Not later than 18 months after the date on which all members of the Commission are appointed under subsection (c), the Commission shall submit to Congress and the President a final report establishing a plan for development of legislation for a comprehensive national policy relating to energy security that—

(A) addresses global climate change; and

(B) describes the findings and recommendations agreed to by a majority of members of the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section, to remain available until the later of—

(1) the date on which the funds are expended; or

(2) the date of termination of the Commission under subsection (j).

(j) TERMINATION.—

(1) IN GENERAL.—The Commission shall terminate on the date that is 60 days after the date on which the final report is submitted under subsection (h)(2).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—During the 60-day period described in paragraph (1), the Commission may conclude the activities of the Commission, including—

(A) providing testimony to appropriate committees of Congress regarding the reports of the Commission; and

(B) publishing the final report of the Commission.

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**SA 4897.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 377, strike line 21 and all that follows through page 379, line 8, and insert the following:

(a) IN GENERAL.—Of the amounts made available annually under section 1231(b), 15 percent shall be allocated to the Secretary of Commerce for use in funding adaptation activities to protect, maintain, and restore coastal, estuarine, Great Lakes, and marine resources, habitats, and ecosystems, including activities carried out under—

(1) the coastal and estuarine land conservation program;

(2) the community-based restoration program;

(3) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), subject to the condition that State coastal agencies shall incorporate, and the Secretary of Commerce shall approve, coastal zone management plan elements that are—

(A) consistent with the National Wildlife Adaptation Strategy developed by the President under section 1222(a), as part of a coastal zone management program established under this Act; and

(B) specifically designed to strengthen the ability of coastal, estuarine, and marine resources, habitats, and ecosystems to adapt to and withstand the impacts of—

(i) global warming; and

(ii) where practicable, ocean acidification;

(4) the Open Rivers Initiative;

(5) the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

(7) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(9) the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

(b) REGIONAL INTEGRATED SCIENCES AND ASSESSMENTS PROGRAM.—Of the amounts made available annually under section 1231(b), 2 percent shall be allocated to the Secretary of Commerce for use in funding activities through the Regional Integrated Sciences and Assessments program of the Department of Commerce, including the development of climate mitigation and adaptation decision support systems and tools for regional, State, and local decision-makers and policy planners.

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**SA 4898.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 36, line 14 and all that follows through page 41, line 8, strike ''Administrator'' each place it appears and insert ''Secretary of Energy''.

Beginning on page 142, strike line 9 and all that follows through page 147, line 20 and insert the following:

**Subtitle D—Climate Change Technology Initiative**

**SEC. 431. ESTABLISHMENT.**

There is established, within the Department of Energy, a Climate Change Technology Initiative.

**SEC. 432. PURPOSE.**

The purpose of the Climate Change Technology Initiative shall be to advance the purposes of this Act by using the funds made available to the Secretary of Energy under

titles VIII through XI to accelerate the commercialization and diffusion of low- and zero-carbon technologies and practices.

**SEC. 433. DISTRIBUTION OF FUNDS.**

The Secretary of Energy shall have the authority to distribute funds made available to the Secretary under this Act.

**SEC. 434. NOTIFICATION OF DISTRIBUTION OF FUNDS.**

(a) ADVANCE NOTIFICATION.—Not later than 60 days before distributing any funds made available under this Act to the Secretary of Energy, the Secretary shall—

(1) publish in the Federal Register a detailed notification of the distribution; and

(2) provide a detailed notification of the distribution to—

(A) the President; and

(B) each committee of Congress with jurisdiction over an activity that would be funded under the distribution.

(b) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Secretary of Energy shall submit to Congress a report describing, with respect to amounts obligated by the Secretary under this Act for that fiscal year—

(1) the actual amounts obligated during that fiscal year;

(2) the purposes for which the amounts were obligated; and

(3) the balance, if any, of amounts that—

(A) were obligated during that year; but

(B) remain unexpended as of the date of submission of the report.

**SEC. 435. REVIEWS AND AUDITS BY COMPTROLLER GENERAL.**

The Comptroller General of the United States shall conduct periodic reviews and audits of the efficacy of the distributions of funds made by the Secretary of Energy under this Act.

On page 283, lines 18 and 19, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 284, lines 2 and 3, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 285, line 3, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 285, lines 17 and 18, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 286, lines 3 and 4, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 286, lines 17 and 18, strike ''Climate Change Technology Board, in consultation with the Administrator, the Secretary of Energy,'' and insert ''Secretary of Energy, in consultation with the Administrator,''.

On page 286, line 23, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 288, lines 1 and 2, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 288, lines 10 and 11, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 288, lines 17 and 18, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 289, line 7, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 289, lines 23 and 24, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 290, lines 5 and 6, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 290, lines 11 and 12, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 291, lines 5 and 6, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 291, lines 13 and 14, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 297, lines 15 and 16, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 297, line 21, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 298, lines 5 and 6, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 298, lines 20 and 21, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 299, line 4, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 299, lines 7 and 8, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 301, lines 6 and 7, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 301, lines 14 and 15, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 302, lines 3 and 4, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 304, strike lines 4 through 7.

On page 305, lines 7 and 8, strike ''Climate Change Technology Board established by section 431 (referred to in this subtitle as the 'Board')'' and insert ''Secretary of Energy''.

Beginning on page 305, line 10, and all that follows through page 306, line 3, strike ''Board'' each place it appears and insert ''Secretary of Energy''.

On page 333, lines 21 and 22, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 334, lines 3 and 4, strike ''Climate Change Technology Board established by section 431'' and insert ''Secretary of Energy''.

On page 334, lines 25 and 26, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 335, lines 15 and 16, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 337, lines 1 and 2, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 337, lines 6 and 7, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 337, lines 11 and 12, strike ''Climate Change Technology Board'' and insert ''Secretary of Energy''.

On page 480, lines 23 and 24, strike ''the Board, or the Climate Change Technology Board'' and insert ''or the Board''.

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**SA 4899.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 241, after line 21, strike the table and insert the following:

| Calendar Year | Percentage for State leaders in reducing greenhouse gas emissions and improving energy efficiency |
|---|---|
| 2012 | 0 |
| 2013 | 0 |
| 2014 | 0 |
| 2015 | 0 |
| 2016 | 0.25 |
| 2017 | 0.25 |
| 2018 | 0.55 |
| 2019 | 0.75 |
| 2020 | 1 |
| 2021 | 1 |
| 2022 | 5.5 |
| 2023 | 5.75 |
| 2024 | 6.0 |
| 2025 | 6.25 |
| 2026 | 6.5 |
| 2027 | 6.75 |
| 2028 | 7 |
| 2029 | 7.25 |
| 2030 | 7.5 |
| 2031 | 8.5 |
| 2032 | 9.5 |
| 2033 | 9.5 |
| 2034 | 9.5 |
| 2035 | 9.5 |
| 2036 | 9.5 |
| 2037 | 9.5 |
| 2038 | 9.5 |
| 2039 | 9.5 |
| 2040 | 9.5 |
| 2041 | 9.5 |
| 2042 | 9.5 |
| 2043 | 9.5 |
| 2044 | 9.5 |
| 2045 | 9.5 |
| 2046 | 9.5 |
| 2047 | 9.5 |
| 2048 | 9.5 |
| 2049 | 9.5 |
| 2050 | 9.5. |

On page 290, lines 6 and 7, strike ''4 percent'' and insert ''5.6 percent''.

On page 294, line 20, strike ''1.75 percent'' and insert ''3.25 percent''.

On page 303, line 5, strike ''0.25 percent'' and insert ''0.75 percent''.

On page 458, after line 5, strike the table and insert the following:

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 6.15 |
| 2013 | 6.15 |
| 2014 | 6.15 |
| 2015 | 6.90 |
| 2016 | 7.15 |
| 2017 | 7.15 |
| 2018 | 7.65 |
| 2019 | 7.4 |
| 2020 | 8.4 |
| 2021 | 9.9 |
| 2022 | 8.75 |
| 2023 | 9.75 |
| 2024 | 10.75 |
| 2025 | 10.75 |
| 2026 | 12.75 |
| 2027 | 12.75 |
| 2028 | 12.75 |
| 2029 | 13.75 |
| 2030 | 13.75 |
| 2031 | 19.75 |
| 2032 | 17.75 |
| 2033 | 17.75 |
| 2034 | 16.75 |

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2035 | 16.75 |
| 2036 | 16.75 |
| 2037 | 16.75 |
| 2038 | 16.75 |
| 2039 | 16.75 |
| 2040 | 16.75 |
| 2041 | 16.75 |
| 2042 | 16.75 |
| 2043 | 16.75 |
| 2044 | 16.75 |
| 2045 | 16.75 |
| 2046 | 16.75 |
| 2047 | 16.75 |
| 2048 | 16.75 |
| 2049 | 16.75 |
| 2050 | 16.75 |

**SA 4900.** Mr. SALAZAR (for himself, Mrs. DOLE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, strike lines 14 through 19 and insert the following:

(1) IN GENERAL.—The Administrator shall include, in the regulations promulgated pursuant to subsection (a), provisions for—

(A) distributing solely among rural electric cooperatives, in addition to any other allowances that rural electric cooperatives are eligible to receive, the quantities of emission allowances represented by percentages in the following table; and

(B) deducting those quantities from the percentages specified in the table under section 551(b):

| Calendar year | Percentage for distribution among rural electric cooperatives |
|---|---|
| 2012 | 1 |
| 2013 | 1 |
| 2014 | 1 |
| 2015 | 1 |
| 2016 | 1 |
| 2017 | 1 |
| 2018 | 1 |
| 2019 | 1 |
| 2020 | 1 |
| 2021 | 1 |
| 2022 | 0.75 |
| 2023 | 0.75 |
| 2024 | 0.75 |
| 2025 | 0.75 |
| 2026 | 0.5 |
| 2027 | 0.5 |
| 2028 | 0.5 |
| 2029 | 0.25 |
| 2030 | 0.25 |

**SA 4901.** Mr. SALAZAR (for himself, Mr. BARRASSO, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, strike lines 4 through 8 and insert the following:

(A)(i) the average annual quantity of carbon dioxide equivalents emitted by the fossil fuel-fired electricity generator during the 3 calendar years preceding the date of enactment of this Act; or

(ii) in the case of a fossil fuel-fired electricity generator that was placed in service during the 3-year period ending on the date of enactment of this Act, the quantity of carbon dioxide equivalents emitted by the facility during normal operations exclusive of start-up testing, outages, and related operations, on an annual equivalent basis; by

**SA 4902.** Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Insert after section 125, the following:

**SEC. 126. RESEARCH ON THE HEALTH EFFECTS OF CLIMATE CHANGE.**

Title III of the Public Health Service Act is amended by inserting after section 317S (42 U.S.C. 247b-21) the following:

**"SEC. 317T. IMPROVING THE PUBLIC HEALTH RESPONSE TO CLIMATE CHANGE.**

''(a) EXPANSION OF RESEARCH WITHIN CDC.—The Secretary, acting through the Centers for Disease Control and Prevention, shall, to the extent that amounts are appropriated under subsection (b)—

''(1) provide funding for research on the health effects of climate change;

''(2) develop additional expertise in the prevention and preparedness for the health effects of climate change;

''(3) provide technical support to State and local health departments in developing preparedness plans, and communicating with the public relating to the health effects of climate change; and

''(4) develop training programs for public health professionals concerning the health risks and interventions related to climate change.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out activities under subsection (a) in each of fiscal years 2009 through 2013.''.

Add at the end of title VI, the following:

**Subtitle E—Partnerships To Improve the Public Health Response to Climate Change**

**SEC. 641. PARTNERSHIPS TO IMPROVE THE PUBLIC HEALTH RESPONSE TO CLIMATE CHANGE.**

(a) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall allocate a percentage of the quantity of emission allowances established pursuant to section 201(a) for the applicable calendar year for distribution among States for activities carried out in response to the impacts of global climate change, in accordance with subsection (b).

(b) PERCENTAGES FOR ALLOCATION.—For each of calendar years 2012 through 2050, the Administrator shall distribute in accordance with subsection (a) the percentage of emission allowances specified in the following table:

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 0.5 |
| 2013 | 0.5 |
| 2014 | 0.5 |
| 2015 | 0.5 |
| 2016 | 0.5 |
| 2017 | 0.5 |
| 2018 | 0.5 |
| 2019 | 0.5 |
| 2020 | 0.5 |
| 2021 | 0.75 |
| 2022 | 0.75 |
| 2023 | 0.75 |
| 2024 | 0.75 |
| 2025 | 1 |
| 2026 | 1 |
| 2027 | 1 |
| 2028 | 1 |
| 2029 | 1 |
| 2030 | 1 |
| 2031 | 1 |
| 2032 | 1 |
| 2033 | 1 |
| 2034 | 1 |
| 2035 | 1 |
| 2036 | 1 |
| 2037 | 1 |
| 2038 | 1 |
| 2039 | 1 |
| 2040 | 1 |
| 2041 | 1 |
| 2042 | 1 |
| 2043 | 1 |
| 2044 | 1 |
| 2045 | 1 |
| 2046 | 1 |
| 2047 | 1 |
| 2048 | 1 |
| 2049 | 1 |
| 2050 | 1. |

(c) DISTRIBUTION.—The emission allowances available for allocation under subsection (b) for a calendar year shall be distributed among the States in proportion to the population of each such State.

(d) USE OF EMISSION ALLOWANCES OR PROCEEDS.—

(1) IN GENERAL.—During any calendar year, a State receiving emission allowances under this section shall use the emission allowances (or proceeds of the sale of those emission allowances) only for projects and activities to plan for and address the impacts of climate change on public health.

(2) SPECIFIC USES.—The projects and activities described in paragraph (1) shall include projects and activities to—

(A) develop, improve, and integrate disease surveillance systems to respond to the health-related effects of climate change;

(B) develop rapid response systems for extreme weather events;

(C) identify and prioritize vulnerable communities and populations and actions that should be taken to protect them from the health-related effects of climate change;

(D) study and develop communication methods and materials to determine the most effective ways to communicate with individuals and communities concerning potential threats, protective behaviors, and preventive actions relating to climate change;

(E) pursue collaborative efforts to develop community strategies to prevent the effects of climate change;

(F) train or develop the public health workforce to strengthen the capacity of such workforce to respond to, and prepare for, the health effects of climate change; and

(G) carry out other activities determined appropriate by the Secretary of Health and

Human Services to plan for and address the impacts of climate change on public health.

(3) COORDINATION.—In carrying out this subsection, a State shall coordinate with the Administrator and the heads of other appropriate Federal agencies to ensure, to the maximum extent practicable, an efficient and effective use of emission allowances (or proceeds of sale of those emission allowances) allocated under this section.

(e) RETURN OF UNUSED EMISSION ALLOWANCES.—Any State receiving emission allowances under this section shall return to the Administrator any such emission allowances that the State has failed to use in accordance with subsection (d) by not later than 5 years after the date of receipt of the emission allowances from the Administrator.

(f) USE OF RETURNED EMISSION ALLOWANCES.—The Administrator shall, in accordance with subsection (c), distribute any emission allowances returned to the Administrator under subsection (e) to States other than the State that returned those allowances to the Administrator.

(g) REPORT.—

(1) IN GENERAL.—A State receiving allowances under this section shall annually submit to the appropriate committees of Congress and the appropriate Federal agencies a report describing the purposes for which the State has used—

(A) the allowances received under this section; and

(B) the proceeds of the sale by the State of allowances received under this section.

(2) DEFINITION.—As used in this subsection, the term ''the appropriate committees of Congress'' shall include the Committee on Health, Education, Labor and Pensions of the Senate.

In section 1223(a)(1)(B), insert ''public health,'' after ''climate change,''.

In section 1223(b)(1)(A), insert ''public health,'' after ''ecosystems,''.

In section 1402(c), strike the table and insert the following:

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 5.25 |
| 2013 | 5.25 |
| 2014 | 5.25 |
| 2015 | 6. |
| 2016 | 6.25 |
| 2017 | 6.25 |
| 2018 | 6.75 |
| 2019 | 6.5 |
| 2020 | 7.5 |
| 2021 | 8.75 |
| 2022 | 8 |
| 2023 | 9 |
| 2024 | 10 |
| 2025 | 9.75 |
| 2026 | 11.75 |
| 2027 | 11.75 |
| 2028 | 11.75 |
| 2029 | 12.75 |
| 2030 | 12.75 |
| 2031 | 18.75 |
| 2032 | 16.75 |
| 2033 | 16.75 |
| 2034 | 15.75 |
| 2035 | 15.75 |
| 2036 | 15.75 |
| 2037 | 15.75 |
| 2038 | 15.75 |
| 2039 | 15.75 |
| 2040 | 15.75 |
| 2041 | 15.75 |
| 2042 | 15.75 |
| 2043 | 15.75 |
| 2044 | 15.75 |
| 2045 | 15.75 |
| 2046 | 15.75 |
| 2047 | 15.75 |
| 2048 | 15.75 |
| 2049 | 15.75 |
| 2050 | 15.75. |

In section 1601(b)(1), strike ''and'' at the end.

In section 1601(b)(2)(F), strike the period and insert ''; and''.

In section 1601(b), add at the end the following:

''(3) provide recommendations for the design and integration of public health systems that can recognize and respond to the health effects of climate change, particularly emerging and reemerging communicable diseases.''.

In section 1602, amend the section heading to read as follows:

**SEC. 1602. AGENCY RECOMMENDATIONS.**

In section 1602, add at the end the following:

(f) RECOMMENDATIONS ON IMPROVING THE PUBLIC HEALTH RESPONSE TO CLIMATE CHANGE.—Not later than January 1, 2013, the Secretary of Health and Human Services shall submit to Congress legislative recommendations based in part on the most recent report submitted by the National Academy of Sciences pursuant to section 1601(b)(3).

In section 1603(b)(4), strike ''and'' at the end.

In section 1603(b), insert after paragraph (4) the following and redesignate accordingly:

''(5) the Secretary of Health and Human Services; and''.

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**SA 4903.** Mr. WARNER (for himself, Mr. LIBERMAN, Mrs. DOLE, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 481, strike lines 8 through 13 and insert the following:

(a) DECLARATION.—

(1) IN GENERAL.—If the President determines that a national security, energy security, or economic security emergency exists, and that it is in the paramount interest of the United States to modify any requirement under this Act to minimize the effects of the emergency, the President may make an emergency declaration.

(2) INCREASE IN PRICE OF TRANSPORTATION FUEL.—In making a determination under paragraph (1), any increase in the price of transportation fuel that the President determines to be attributable to the implementation of this Act may serve as the basis for an emergency declaration under that paragraph if the increase amounts to a national security, energy security, or economic security emergency, as determined by the President.

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**SA 4904.** Mr. REED (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 192, strike line 13 and all that follows through page 193, line 8, and insert the following:

**SEC. 551. ALLOCATION.**

(a) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2026, the Administrator shall allocate a quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among owners and operators of fossil fuel-fired electricity generators in the United States.

(b) QUANTITIES OF EMISSION ALLOWANCES ALLOCATED.—The quantities of emission allowances allocated pursuant to subsection (a) shall be the quantities specified in the following table:

| Calendar year | Allowances for distribution among fossil fuel-fired electricity generators (in millions) |
|---|---|
| 2012 | 713.8735 |
| 2013 | 700.7704 |
| 2014 | 687.5436 |
| 2015 | 674.4405 |
| 2016 | 648.4032 |
| 2017 | 623.0108 |
| 2018 | 582.9819 |
| 2019 | 522.2118 |
| 2020 | 451.9791 |
| 2021 | 373.1201 |
| 2022 | 264.9938 |
| 2023 | 216.3391 |
| 2024 | 160.0451 |
| 2025 | 146.4000 |
| 2026 | 32.8593. |

**SEC. 552. DISTRIBUTION.**

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations establishing a system for distributing, for each of calendar years 2012 through 2026, among owners and operators of individual fossil fuel-fired electricity generators in the United States, the emission allowances allocated for that year by section 551.

On page 195, line 1, strike ''2029'' and insert ''2026''.

Beginning on page 196, strike line 18 and all that follows through page 197, line 8, and insert the following:

**SEC. 561. ALLOCATION.**

(a) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2026, the Administrator shall allocate a quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among owners and operators of entities that manufacture petroleum-based liquid or gaseous fuel in the United States.

(b) QUANTITIES OF EMISSION ALLOWANCES ALLOCATED.—The quantities of emission allowances allocated pursuant to subsection (a) shall be the quantities specified in the following table:

| Calendar year | Allowances for refiners of petroleum-based fuel (in millions) |
|---|---|
| 2012 | 79.3193 |
| 2013 | 77.8634 |
| 2014 | 76.3937 |
| 2015 | 74.9378 |
| 2016 | 73.0595 |
| 2017 | 71.2012 |

| Calendar year | Allowances for refiners of petroleum-based fuel (in millions) |
|---|---|
| 2018 | 33.7961 |
| 2019 | 32.1361 |
| 2020 | 30.1319 |
| 2021 | 27.6385 |
| 2022 | 23.5550 |
| 2023 | 21.1063 |
| 2024 | 17.7828 |
| 2025 | 16.7314 |
| 2026 | 5.7147. |

Beginning on page 198, strike line 19 and all that follows through page 199, line 8, and insert the following:

**SEC. 571. ALLOCATION.**

(a) IN GENERAL.—Not later than 330 days before the beginning of each of calendar years 2012 through 2026, the Administrator shall allocate a quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among owners and operators of—

(1) natural gas processing plants in the United States (other than in the State of Alaska);

(2) entities that produce natural gas in the State of Alaska or the Federal waters of the outer Continental Shelf off the coast of that State; and

(3) entities that hold title to natural gas, including liquefied natural gas, or natural-gas liquid at the time of importation into the United States.

(b) QUANTITIES OF EMISSION ALLOWANCES ALLOCATED.—The quantities of emission allowances allocated pursuant to subsection (a) shall be the quantities specified in the following table:

| Calendar year | Allowances for natural-gas processors (in millions) |
|---|---|
| 2012 | 29.7447 |
| 2013 | 29.1988 |
| 2014 | 28.6477 |
| 2015 | 28.1017 |
| 2016 | 27.3973 |
| 2017 | 26.7005 |
| 2018 | 25.3470 |
| 2019 | 24.1021 |
| 2020 | 22.5990 |
| 2021 | 20.7289 |
| 2022 | 17.6663 |
| 2023 | 15.8297 |
| 2024 | 13.3371 |
| 2025 | 12.5486 |
| 2026 | 4.2860. |

Beginning on page 202, strike line 24 and all that follows through the table on page 203, preceding line 3, and insert the following:

(c) QUANTITIES OF EMISSION ALLOWANCES AUCTIONED.—The quantities of emission allowances allocated for each calendar year pursuant to subsection (a) shall be the quantities specified in the following table:

| Calendar year | Allowances for energy consumers (in millions) |
|---|---|
| 2012 | 202.1250 |
| 2013 | 212.5875 |
| 2014 | 208.5750 |
| 2015 | 218.2400 |
| 2016 | 227.3325 |
| 2017 | 235.9350 |
| 2018 | 256.8500 |
| 2019 | 301.8000 |
| 2020 | 295.4400 |
| 2021 | 289.0200 |
| 2022 | 329.7700 |
| 2023 | 322.3500 |
| 2024 | 359.8400 |
| 2025 | 351.3600 |
| 2026 | 385.7400 |
| 2027 | 417.9000 |
| 2028 | 407.3000 |
| 2029 | 436.2600 |
| 2030 | 463.2000 |
| 2031 | 443.6250 |
| 2032 | 429.0000 |
| 2033 | 414.5000 |
| 2034 | 432.0000 |
| 2035 | 416.2050 |
| 2036 | 400.5450 |
| 2037 | 384.7500 |
| 2038 | 369.0900 |
| 2039 | 353.4300 |
| 2040 | 337.6350 |
| 2041 | 321.9750 |
| 2042 | 306.3150 |
| 2043 | 290.5200 |
| 2044 | 274.8600 |
| 2045 | 259.0650 |
| 2046 | 243.4050 |
| 2047 | 227.7450 |
| 2048 | 211.9500 |
| 2049 | 196.2900 |
| 2050 | 180.4950. |

Beginning on page 204, strike line 22 and all that follows through page 206, line 21, and insert the following:

**SEC. 601. ASSISTING ENERGY CONSUMERS THROUGH LOCAL DISTRIBUTION ENTITIES, LIHEAP PROGRAM, AND WEATHERIZATION ASSISTANCE PROGRAM.**

(a) ALLOCATION AND RESERVATION.—

(1) LDC ALLOCATION.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall allocate among local distribution companies and natural gas local distribution companies the quantities of emission allowances established pursuant to section 201(a) for the calendar year for local distribution companies as specified in the following table:

| Calendar year | Allowances for LDC's electricity (in millions) | Allowances for LDC's natural gas (in millions) |
|---|---|---|
| 2012 | 548.6250 | 187.6875 |
| 2013 | 552.7275 | 184.2425 |
| 2014 | 542.2950 | 180.7650 |
| 2015 | 531.9600 | 177.3200 |
| 2016 | 521.5275 | 173.8425 |
| 2017 | 511.1925 | 170.3975 |
| 2018 | 500.8575 | 166.9525 |
| 2019 | 490.4250 | 163.4750 |
| 2020 | 480.0900 | 160.0300 |
| 2021 | 469.6575 | 156.5525 |
| 2022 | 459.3225 | 153.1075 |
| 2023 | 448.9875 | 149.6625 |
| 2024 | 438.5550 | 146.1850 |
| 2025 | 428.2200 | 142.7400 |
| 2026 | 428.6000 | 150.0100 |
| 2027 | 410.1611 | 143.5564 |
| 2028 | 392.2148 | 137.2752 |
| 2029 | 345.1889 | 120.8161 |
| 2030 | 328.8148 | 115.0852 |
| 2031 | 319.4100 | 70.9800 |
| 2032 | 308.8800 | 68.6400 |
| 2033 | 298.4400 | 66.3200 |
| 2034 | 288.0000 | 64.0000 |
| 2035 | 277.4700 | 61.6600 |
| 2036 | 267.0300 | 59.3400 |
| 2037 | 256.5000 | 57.0000 |
| 2038 | 246.0600 | 54.6800 |
| 2039 | 235.6200 | 52.3600 |
| 2040 | 225.0900 | 50.0200 |
| 2041 | 214.6500 | 47.7000 |
| 2042 | 204.2100 | 45.3800 |
| 2043 | 193.6800 | 43.0400 |

| Calendar year | Allowances for LDC's electricity (in millions) | Allowances for LDC's natural gas (in millions) |
|---|---|---|
| 2044 | 183.2400 | 40.7200 |
| 2045 | 172.7100 | 38.3800 |
| 2046 | 162.2700 | 36.0600 |
| 2047 | 151.8300 | 33.7400 |
| 2048 | 141.3000 | 31.4000 |
| 2049 | 130.8600 | 29.0800 |
| 2050 | 120.3300 | 26.7400. |

(2) LIHEAP/WAP RESERVATION.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall reserve for the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), and the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) the quantities of emission allowances established pursuant to section 201(a) for the calendar year for local distribution companies as specified in the following table:

| Calendar year | Allowances for LIHEAP (in millions) | Allowances for Weatherization Program (in millions) |
|---|---|---|
| 2012 | 259.8750 | 115.5000 |
| 2013 | 255.1050 | 113.3800 |
| 2014 | 250.2900 | 111.2400 |
| 2015 | 245.5200 | 109.1200 |
| 2016 | 240.7050 | 106.9800 |
| 2017 | 235.9350 | 104.8600 |
| 2018 | 231.1650 | 102.7400 |
| 2019 | 226.3500 | 100.6000 |
| 2020 | 221.5800 | 98.4800 |
| 2021 | 216.7650 | 96.3400 |
| 2022 | 211.9950 | 94.2200 |
| 2023 | 207.2250 | 92.1000 |
| 2024 | 202.4100 | 89.9600 |
| 2025 | 197.6400 | 87.8400 |
| 2026 | 192.8700 | 85.7200 |
| 2027 | 188.0550 | 83.5800 |
| 2028 | 183.2850 | 81.4600 |
| 2029 | 178.4700 | 79.3200 |
| 2030 | 173.7000 | 77.2000 |
| 2031 | 133.0875 | 8.8725 |
| 2032 | 128.7000 | 8.5800 |
| 2033 | 124.3500 | 8.2900 |
| 2034 | 120.0000 | 8.0000 |
| 2035 | 115.6125 | 7.7075 |
| 2036 | 111.2625 | 7.4175 |
| 2037 | 106.8750 | 7.1250 |
| 2038 | 102.5250 | 6.8350 |
| 2039 | 98.1750 | 6.5450 |
| 2040 | 93.7875 | 6.2525 |
| 2041 | 89.4375 | 5.9625 |
| 2042 | 85.0875 | 5.6725 |
| 2043 | 80.7000 | 5.3800 |
| 2044 | 76.3500 | 5.0900 |
| 2045 | 71.9625 | 4.7975 |
| 2046 | 67.6125 | 4.5075 |
| 2047 | 63.2625 | 4.2175 |
| 2048 | 58.8750 | 3.9250 |
| 2049 | 54.5250 | 3.6350 |
| 2050 | 50.1375 | 3.3425. |

(b) DISTRIBUTION.—

(1) LOCAL DISTRIBUTION ENTITIES.—

(A) IN GENERAL.—For each calendar year, the emission allowances allocated under subsection (a) for local distribution entities shall be distributed by the Administrator to each local distribution entity based on the proportion that—

On page 206, strike line 22 and insert the following:

(i) the quantity of electricity or natural

On page 207, strike line 7 and insert the following:

(ii) the total quantity of electricity or nat-

On page 207, strike line 15 and insert the following:

(B) BASIS.—The Administrator shall base the

On page 207, line 18, strike ''paragraph (1)'' and insert ''subparagraph (A)''.

On page 207, between lines 21 and 22, insert the following:

(2) DISTRIBUTION TO LIHEAP AND WAP.—With respect to the allowances reserved under subsection (a)(2) for the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), and the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.), as specified in the table contained in subsection (a)(2), the Administrator shall—

(A) auction the allowances in accordance with the procedures described in section 582(b); and

(B) transfer the proceeds of the auctions of the allowances for low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) and the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) to the Secretary of Health and Human Services and the Secretary of Energy, respectively, for use in carrying out those programs.

Beginning on page 210, strike line 22 and all that follows through page 211, line 3.

On page 211, line 4, strike ''(IV)'' and insert ''(II)''.

On page 211, strike lines 10 and 11 and insert the following:

(III) includes energy efficiency and other pro-

Beginning on page 211, strike line 18 and all that follows through page 212, line 14, and insert the following:

(C) DEVELOPMENT.—A local distribution entity may develop an assistance program under this paragraph—

(i) in consultation with appropriate State regulatory authorities; or

(ii) for the purpose of supplementing an existing low-income consumer assistance plan of the entity.

On page 214, line 5, strike ''issuing rebates'' and insert ''creating incentive programs''.

Beginning on page 214, strike line 14 and all that follows through page 215, line 9, and insert the following:

(B) MINIMUM PERCENTAGE REQUIREMENT.—Each local distribution entity shall use not less than 30 percent of the proceeds of from the sale of emission allowances under paragraph (1) to benefit low-income residential energy consumers.

On page 216, line 12, strike ''rebates'' and insert ''incentives''.

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**SA 4905.** Mr. CARPER (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 4825 proposed by Mrs. BOXER (for herself, Mr. WARNER, and Mr. LIEBERMAN) to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 352, between lines 16 and 17, insert the following:

**Subtitle E–Intercity Passenger Rail Service Enhancement**

**SEC. 1151. INTERCITY PASSENGER RAIL FUND.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a Fund to be known as the ''Inter-city Passenger Rail Fund''.

(b) AUCTIONS.—Annually over the course of at least 4 auctions spaced evenly over a period beginning 330 days before, and ending 60 days after, the beginning of each calendar year from 2012 through 2050, the Administrator, for the purpose of raising funds to deposit into the Intercity Passenger Rail Fund, shall auction .5 percent of the emission allowances established for that year pursuant to subsection (a) of section 201.

(c) USE OF THE FUND.—The Fund shall invest in capital projects of the National Railroad Passenger Corporation, States, and localities—

(1) to develop and expand Amtrak routes and corridors throughout the United States;

(2) to construct, purchase, replace, or improve passenger rail-related infrastructure, including locomotives, rolling stock, stations and facilities;

(3) to improve or expand passenger rail service and infrastructure capacity; and

(4) to promote or improve intercity rail passenger service reliability, convenience, and on-time performance.

(d) TREATMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund—

(1) may be used only for the purposes described in this section;

(2) shall be in addition to the amounts made available through any other appropriations for any fiscal year, and

(3) shall remain available until expended.

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**SA 4906.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 611 and insert the following:

**SEC. 611. TRANSPORTATION ALTERNATIVES.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Transportation Alternatives Fund'' (referred to in this section as the ''Fund'').

(b) AUCTIONS.—

(1) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall auction, for the purpose of raising funds to deposit in the Fund, 10 percent of the emission allowances established pursuant to section 201(a) for each calendar year, in accordance with paragraph (2).

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(c) GRANTS.—The Secretary of Transportation (referred to in this section as the ''Secretary'') shall use amounts in the Fund to provide grants to States and metropolitan planning organizations for use in accordance with this section.

(d) USE OF FUNDS.—

(1) PLANNING.—To be eligible to receive a grant under this section, a State or metropolitan planning organization shall—

(A) establish as a goal the reduction of greenhouse gas emissions from the transportation sector during the 10-year period beginning on the date of enactment of this Act by reducing vehicle miles traveled in the jurisdictions of the States and metropolitan planning organizations; and

(B) carry out activities to achieve that goal through the integration into the long-term transportation plans of the State or metropolitan planning organization of a verifiable transportation carbon reduction plan that includes investment in—

(i) new or expanded transit projects eligible for assistance under chapter 53 of title 49, United States Code;

(ii) new or expanded intercity passenger rail service, including the development of intercity corridor service, elimination of rail capacity restrictions, purchase of rolling stock, and provision of more reliable and convenient intercity rail passenger service;

(iii) sidewalks, crosswalks, bicycle paths, pedestrian signals, pavement marking, traffic calming techniques, modification of public sidewalks to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and other strategies to encourage pedestrian and bike travel;

(iv) infill, transit-oriented, or mixed-use development;

(v) intermodal facilities, additional freight rail, or multimodal freight capacity;

(vi) carpool or vanpool projects;

(vii) updates to zoning and other land use regulations;

(viii) transportation and land-use scenario analyses and stakeholder engagement to support development of integrated transportation plans;

(ix) improvements in travel and land-use data collection and in travel models to better measure greenhouse gas emissions and emissions reductions;

(x) updates to land use plans to coordinate with local, regional, and State vehicle miles traveled reduction plans; and

(xi) the transportation control measures described in section 211 of the Clean Air Act (42 U.S.C. 7545).

(2) TRANSPORTATION CARBON REDUCTION PLANS.—A State or metropolitan planning organization shall submit to the Administrator and the Secretary—

(A) by not later than December 31, 2012, a transportation carbon reduction plan developed under paragraph (1)(B); and

(B) every 3 years thereafter, any updates to that plan, as necessary.

(3) COORDINATION.—A State or metropolitan planning organization shall develop the plan required under this section in coordination with, as applicable—

(A) the public and stakeholders, including by providing—

(i) periods for public comment;

(ii) exercises involving identifying and projecting forward trends to examine possible future developments that could impact driving trends and carbon emissions from the transportation sector;

(iii) access to latest models; and

(iv) multiday, open, collaborative design sessions that include stakeholders and the public in a collaborative process with a series of short feedback loops to produce 1 or more feasible plans under this section;

(B) each other State or metropolitan planning organization subject to the jurisdiction of the State or metropolitan planning organization; and

(C) State and local housing, economic development, and land use agencies.

(4) CERTIFICATION.—Not later than 180 days after the date of receipt of a transportation carbon reduction plan under paragraph (2), the Administrator and Secretary shall—

(A) review the plan; and

(B) certify that the plan is likely to achieve the goal described in paragraph (1)(A).

(e) DISTRIBUTION OF FUNDS.—The Secretary, in coordination with the Administrator, shall establish a formula for the distribution of grants under this section that—

(1) reflects—

(A) the quantity of carbon reduction expected by each plan; and

(B) the cost-per-ton of those reductions;

(2) ensures that at least 50 percent of amounts in the Fund are used to implement plans developed by metropolitan planning organizations; and

(3) provides early action credits for States and regions that implement plans to reduce carbon from the transportation sector by reducing vehicle miles traveled prior to participation in the program under this section.

(f) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity carried out under a plan under this section shall be 20 percent.

(g) STUDY.—Not later than 1 year after the date of enactment of this Act, to maximize greenhouse gas emission reductions from the transportation sector—

(1) the National Academy of Sciences Transportation Research Board shall submit to the Administrator and the Secretary a report containing recommendations for improving research and tools to assess the effect of transportation plans and land use plans on motor vehicle usage rates and transportation sector greenhouse gas emissions; and

(2) the Comptroller General of the United States shall submit to the Administrator and the Secretary a report describing any shortcomings of current Federal Government data sources necessary—

(A) to assess greenhouse gas emissions from the transportation sector; and

(B) to establish plans and policies to effectively reduce greenhouse gas emissions from the transportation sector.

(h) TECHNICAL STANDARDS.—Not later than 2 years after the date of enactment of this Act, based on any recommendations contained in the reports submitted under subsection (g)(1), the Administrator and the Secretary shall promulgate standards for transportation data collection, monitoring, planning, and modeling.

(i) REPORT.—Not later than December 31, 2015, and every 3 years thereafter, the Administrator shall submit to the appropriate committees of Congress a report describing—

(1) the aggregate reduction in carbon emissions from transportation expected based on plans under this section;

(2) changes to Federal law that could improve the performance of the plans; and

(3) regulatory changes planned to improve the performance of the plans.

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**SA 4907.** Mr. CARPER (for himself, Mr. GREGG, Mrs. FEINSTEIN, Ms. COLLINS, and Mr. SUNUNU) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

In section 552, strike subsection (b) and insert the following:

(b) CALCULATION.—

(1) DEFINITIONS.—In this subsection:

(A) FOSSIL FUEL-FIRED ELECTRIC GENERATOR.—The term ''fossil fuel-fired electric generator'' means any electric generating facility that—

(i) combusts fossil fuel, alone or in combination with any other fuel, in any case in which the quantity of fossil fuel combusted comprises, or is projected to comprise, more than 20 percent of the annual heat input of the electric generating facility, on a Btu basis, during any calendar year; and

(ii) has commenced operation prior to the date of enactment of this Act.

(B) INCREMENTAL NUCLEAR GENERATION.—The term ''incremental nuclear generation'' means, as determined by the Administrator and measured in megawatt hours, the difference between—

(i) the quantity of electricity generated by a nuclear generating unit during a calendar year; and

(ii) the quantity of electricity generated by the nuclear generating unit during the calendar year of enactment of this Act.

(C) NEW ELECTRIC GENERATING ENTRANT.—The term ''new electric generating entrant'' means—

(i) a fossil fuel-fired electric generator that—

(I) has a nameplate capacity of greater than 25 megawatts;

(II) produces electricity for sale; and

(III) commences operation after the date of enactment of this Act;

(ii) with respect to incremental nuclear generation, a nuclear generating facility that uses nuclear energy to produce electricity for sale; and

(iii) a renewable energy unit that—

(I) produces electricity for sale; and

(II) commences operation after the date of enactment of this Act.

(D) RENEWABLE ENERGY UNIT.—The term ''renewable energy unit'' means an electric generating facility that uses solar energy, wind, incremental hydropower, biomass, landfill gas, livestock methane, ocean waves, geothermal energy, or fuel cells powered with a renewable energy source.

(2) ALLOCATION METHODOLOGY.—

(A) FOSSIL FUEL-FIRED ELECTRIC GENERATORS.—In establishing the system under subsection (a), with respect to fossil fuel-fired electric generators, the Administrator shall base the system on the annual quantity of electricity generated by each fossil fuel-fired electric generator during the most recent 3-calendar year period for which data are available, updated each calendar year and measured in megawatt hours.

(B) NEW ELECTRIC GENERATING ENTRANTS.—In establishing the system under subsection (a), with respect to new electric generating entrants, the Administrator shall—

(i) for each of calendar years 2012 through 2030, provide for the allocation of a percentage of the emission allowances allocated by section 551 to new electric generating entrants; and

(ii) base the system on projections of electricity output from each new electric generating entrant.

(3) SENSE OF SENATE REGARDING FUTURE ALLOCATIONS.—It is the sense of the Senate that if the Administrator establishes a cap and trade program for any additional pollutant for electric generating facilities, the allocation methodology for the program should be based on the annual quantity of electricity generated by the electric generating facility during the most recent 3-calendar year period for which data are available, updated each calendar year and measured in megawatt hours.

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**SA 4908.** Mr. CARPER (for himself, Mr. ALEXANDER, Mrs. BOXER, Mr. COLLINS, Mr. BIDEN, Mr. GREGG, Mr. CARDIN, Mr. SUNUNU, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title XVII, add the following:

**SEC. 1752. INTEGRATED AIR QUALITY PLANNING FOR THE ELECTRIC GENERATING SECTOR.**

The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

**''TITLE VII—INTEGRATED AIR QUALITY PLANNING FOR THE ELECTRIC GENERATING SECTOR**

**''SEC. 701. DEFINITIONS.**

''In this title:

''(1) AFFECTED UNIT.—

''(A) MERCURY.—The term 'affected unit', with respect to mercury, means a coal-fired electric generating facility (including a cogeneration facility) that—

''(i) on or after January 1, 1985, served as a generator with a nameplate capacity greater than 25 megawatts; and

''(ii) produces electricity for sale.

''(B) NITROGEN OXIDES.—The term 'affected unit', with respect to nitrogen oxides, means a fossil fuel-fired electric generating facility (including a cogeneration facility) that—

''(i) on or after January 1, 1985, served as a generator with a nameplate capacity greater than 25 megawatts; and

''(ii) produces electricity for sale.

''(C) SULFUR DIOXIDE.—The term 'affected unit', with respect to sulfur dioxide, has the meaning given the term in section 402.

''(2) COGENERATION FACILITY.—The term 'cogeneration facility' means a facility that—

''(A) cogenerates—

''(i) steam; and

''(ii) electricity; and

''(B) supplies, on a net annual basis, to any utility power distribution system for sale—

''(i) more than ⅓ of the potential electric output capacity of the facility; and

''(ii) more than 219,000 megawatt-hours of electrical output.

''(3) FOSSIL FUEL-FIRED.—The term 'fossil fuel-fired', with respect to an electric generating facility, means the combustion of fossil fuel by the electric generating facility, alone or in combination with any other fuel, in any case in which the fossil fuel combusted comprises, or is projected to comprise, more than 20 percent of the annual heat input of the electric generating facility, on a Btu basis, during any calendar year.

''(4) NEW UNIT.—The term 'new unit' means an affected unit that—

''(A) has operated for not more than 3 years; and

''(B) is not eligible to receive nitrogen oxide allowances under section 703(c)(2).

''(5) NITROGEN OXIDE ALLOWANCE.—The term 'nitrogen oxide allowance' means an authorization allocated by the Administrator under this title to emit 1 ton of nitrogen oxides during or after a specified calendar year.

**''SEC. 702. NATIONAL POLLUTANT TONNAGE LIMITATIONS.**

''(a) SULFUR DIOXIDE.—The annual tonnage limitation for emissions of sulfur dioxide from affected units in the United States shall be equal to—

''(1) for each of calendar years 2012 through 2015, 3,500,000 tons; and

''(2) for calendar year 2016 and each calendar year thereafter, 2,000,000 tons.

''(b) NITROGEN OXIDES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ZONE 1 STATE.—The term 'Zone 1 State' means the District of Columbia or any of the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin.

''(B) ZONE 2 STATE.—The term 'Zone 2 State' means any State within the 48 contiguous States that is not a Zone 1 State.

''(2) APPLICABILITY.—

''(A) ZONE 1 PROHIBITION.—

''(i) IN GENERAL.—Beginning on January 1, 2012, it shall be unlawful for an affected unit in a Zone 1 State to emit a total quantity of nitrogen oxides during a year in excess of the number of nitrogen oxide allowances held for the affected unit for that year by the owner or operator of the affected unit.

''(ii) LIMITATION.—Only nitrogen oxide allowances allocated under paragraph (3)(A) shall be used to meet the requirement of clause (i).

''(B) ZONE 2 PROHIBITION.—

''(i) IN GENERAL.—Beginning on January 1, 2012, it shall be unlawful for an affected unit in a Zone 2 State to emit a total quantity of nitrogen oxides during a year in excess of the number of nitrogen oxide allowances held for the affected unit for that year by the owner or operator of the affected unit.

''(ii) LIMITATION.—Only nitrogen oxide allowances allocated under paragraph (3)(B) shall be used to meet the requirement of clause (i).

''(3) LIMITATIONS ON TOTAL EMISSIONS.—

''(A) ZONE 1 LIMITATIONS.—Not later than 330 days before the beginning of calendar year 2012 and each calendar year thereafter, the Administrator shall allocate allowances for emissions of nitrogen oxides from affected units in the Zone 1 States in an annual tonnage limitation equal to—

''(i) for each of calendar years 2012 through 2015, 1,390,000 tons; and

''(ii) for calendar year 2016 and each calendar year thereafter, 1,300,000 tons.

''(B) ZONE 2 LIMITATIONS.—Not later than 330 days before the beginning of calendar year 2012 and each calendar year thereafter, the Administrator shall allocate allowances for emissions of nitrogen oxides from affected units in the Zone 2 States in an annual tonnage limitation equal to—

''(i) for each of calendar years 2012 through 2015, 400,000 tons; and

''(ii) for calendar year 2016 and each calendar year thereafter, 320,000 tons.

''(c) MERCURY.—The emission of mercury from affected units shall be limited in accordance with section 704.

''(d) REVIEW OF ANNUAL TONNAGE LIMITATIONS AND MERCURY EMISSIONS REQUIREMENTS.—

''(1) DETERMINATION BY ADMINISTRATOR.—Not later than 10 years after the date of enactment of this title and every 10 years thereafter, the Administrator shall determine—

''(A) after considering impacts on human health, the environment, the economy, and costs, whether 1 or more of the annual tonnage limitations should be revised; and

''(B) whether the mercury emission requirements under section 704 should be revised in accordance with the risk standards described in section 112(f)(2).

''(2) DETERMINATION NOT TO REVISE.—If the Administrator determines under paragraph (1) that no annual tonnage limitation or mercury emission requirement should be revised, the Administrator shall publish in the Federal Register—

''(A) a notice of the determination; and

''(B) the reasons for the determination.

''(3) DETERMINATION TO REVISE.—If the Administrator determines under paragraph (1) that 1 or more of the annual tonnage limitations or mercury emissions requirements should be revised, the Administrator shall publish in the Federal Register—

''(A) not later than 10 years and 180 days after the date of enactment of this title, proposed regulations implementing the revisions; and

''(B) not later than 11 years and 180 days after the date of enactment of this title, final regulations implementing the revisions.

''(4) ADMINISTRATION.—The duty of the Administrator to make a determination under paragraph (1) shall be—

''(A) considered to be a nondiscretionary duty;

''(B) enforceable through a citizen suit under section 304; and

''(C) subject to rulemaking procedures and judicial review under section 307.

''(5) REQUIREMENT.—No revision of an annual tonnage limitation or mercury emission requirement under this subsection shall result in a limitation or emission requirement that is less stringent than an existing applicable requirement under this title.

''(e) REDUCTION OF EMISSIONS FROM SPECIFIED AFFECTED UNITS.—Notwithstanding the annual tonnage limitations and mercury emissions requirements established under this section, the Federal Government or a State government may require that emissions from a specified affected unit be reduced.

''(f) GENERAL ENFORCEMENT.—

''(1) IN GENERAL.—It shall be unlawful for any individual or entity subject to this title to violate any requirement or prohibition under this title.

''(2) TREATMENT OF EXCESS EMISSIONS.—In calculating any penalty for violation of this title, each ton of emissions of sulfur dioxide, nitrogen oxides, or mercury emitted by a covered unit during a calendar year in excess of the allowances held for use by the covered unit for the calendar year shall be considered to be a separate violation of the applicable limitation under this title.

''(g) EFFECT ON EXISTING LAW AND REGULATIONS.—

''(1) IN GENERAL.—Except as expressly provided in this title, nothing in this title—

''(A) limits or otherwise affects the application of any other provision of this Act or any regulation promulgated by the Administrator under this Act; or

''(B) precludes a State from adopting and enforcing any requirement for the control of emissions of air pollutants that is more stringent than the requirements imposed under this title.

''(2) EXCEPTION.—Notwithstanding paragraph (1)—

''(A) the provisions of the rule promulgated by the Administrator known as the 'Clean Air Interstate Rule' (70 Fed. Reg. 25162 (May 12, 2005)) (or any successor regulation) providing for the establishment of an annual emissions cap and allowance trading program for oxides of nitrogen and sulfur dioxide shall terminate on January 1, 2012; but

''(B) any provision of the rule described in subparagraph (A) (or a successor regulation) relating to the establishment of a seasonal ozone pollutant cap-and-trade program for nitrogen oxides shall remain in full force and effect.

**''SEC. 703. NITROGEN OXIDE TRADING PROGRAM.**

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to establish for affected units in the United States a nitrogen oxide allowance trading program.

''(2) REQUIREMENTS.—Regulations promulgated under paragraph (1) shall establish requirements for the allowance trading program under this section, including requirements concerning—

''(A)(i) the generation, allocation, issuance, recording, tracking, transfer, and use of nitrogen oxide allowances; and

''(ii) the public availability of all information concerning the activities described in clause (i) that is not confidential;

''(B) compliance with subsection (e)(1);

''(C) the monitoring and reporting of emissions under paragraphs (2) and (3) of subsection (e); and

''(D) excess emission penalties under subsection (e)(4).

''(3) MIXED FUEL, COGENERATION FACILITIES AND COMBINED HEAT AND POWER FACILITIES.—The Administrator shall promulgate such regulations as the Administrator determines to be necessary to ensure the equitable issuance of allowances to—

''(A) facilities that use more than 1 energy source to produce electricity; and

''(B) facilities that produce electricity in addition to another service or product.

''(b) NEW UNIT RESERVES.—

''(1) ESTABLISHMENT.—For each calendar year, based on projections of electricity output from new units, the Administrator, in consultation with the Secretary of Energy, shall by regulation establish a reserve of nitrogen oxide allowances to be set aside for use by new units in Zone 1 States, and a reserve of nitrogen oxide allowances to be set aside for use by new units in Zone 2 States, that is not less than 5 percent of the total allowances allocated to affected units for the calendar year.

''(2) UNUSED ALLOWANCES.—Not later than 330 days before the beginning of calendar year 2012 and each calendar year thereafter, the Administrator shall reallocate, to all affected units, any unused nitrogen oxide allowances from the new unit reserve established under paragraph (1) in the proportion that—

''(A) the number of allowances allocated to each affected unit for the calendar year; bears to

''(B) the number of allowances allocated to all affected units for the calendar year.

''(c) NITROGEN OXIDE ALLOCATIONS.—

''(1) TIMING OF ALLOCATIONS.—Not later than 330 days before the beginning of calendar year 2012 and each calendar year thereafter, the Administrator shall allocate nitrogen oxide allowances to affected units.

''(2) ALLOCATIONS TO AFFECTED UNITS THAT ARE NOT NEW UNITS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to establish a methodology for allocating nitrogen oxide allowances to—

''(A) each affected unit in a Zone 1 State that is not a new unit; and

''(B) each affected unit in a Zone 2 State that is not a new unit.

''(3) QUANTITY TO BE ALLOCATED.—

''(A) ZONE 1 STATES.—For each calendar year, the quantity of nitrogen oxide allowances allocated under paragraph (2)(A) to affected units that are not new units shall be equal to the difference between—

''(i) the annual tonnage limitation for emissions of nitrogen oxides from affected units specified in section 702(b)(3)(A) for the calendar year; and

''(ii) the quantity of nitrogen oxide allowances placed in the new unit reserve established under subsection (b) for the calendar year.

''(B) ZONE 2 STATES.—For each calendar year, the quantity of nitrogen oxide allowances allocated under paragraph (2)(B) to affected units that are not new units shall be equal to the difference between—

''(i) the annual tonnage limitation for emissions of nitrogen oxides from affected units specified in section 702(b)(3)(B) for the calendar year; and

''(ii) the quantity of nitrogen oxide allowances placed in the new unit reserve established under subsection (b) for the calendar year.

''(4) ADJUSTMENT OF ALLOCATIONS.—If, for any calendar year, the total quantities of allowances allocated under paragraph (2) are not equal to the applicable quantities determined under paragraph (3), the Administrator shall adjust the quantities of allowances allocated to affected units that are not new units on a pro-rata basis so that the quantities are equal to the applicable quantities determined under paragraph (3).

''(5) ALLOCATION TO NEW UNITS.—

''(A) METHODOLOGY.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations to establish a methodology for allocating nitrogen oxide allowances to new units.

''(B) QUANTITY OF NITROGEN OXIDE ALLOWANCES ALLOCATED.—The Administrator shall determine the quantity of nitrogen oxide allowances to be allocated to each new unit based on the projected emissions from the new unit.

''(6) ALLOWANCE NOT A PROPERTY RIGHT.—A nitrogen oxide allowance—

''(A) is not a property right; and

''(B) may be terminated or limited by the Administrator.

''(7) NO JUDICIAL REVIEW.—An allocation of nitrogen allowances by the Administrator under this subsection shall not be subject to judicial review.

''(d) NITROGEN OXIDE ALLOWANCE TRANSFER SYSTEM.—

''(1) USE OF ALLOWANCES.—The regulations promulgated under subsection (a)(1) shall—

''(A) prohibit the use (but not the transfer in accordance with paragraph (3)) of any nitrogen oxide allowance before the calendar year for which the allowance is allocated;

''(B) provide that unused nitrogen oxide allowances may be carried forward and added to nitrogen oxide allowances allocated for subsequent years; and

''(C) provide that unused nitrogen oxide allowances may be transferred by—

''(i) the person to which the allowances are allocated; or

''(ii) any person to which the allowances are transferred.

''(2) USE BY PERSONS TO WHICH ALLOWANCES ARE TRANSFERRED.—Any person to which nitrogen oxide allowances are transferred under paragraph (1)(C)—

''(A) may use the nitrogen oxide allowances in the calendar year for which the nitrogen oxide allowances were allocated, or in a subsequent calendar year, to demonstrate compliance with subsection (e)(1); or

''(B) may transfer the nitrogen oxide allowances to any other person for the purpose of demonstration of that compliance.

''(3) CERTIFICATION OF TRANSFER.—A transfer of a nitrogen oxide allowance shall not take effect until a written certification of the transfer, authorized by a responsible official of the person making the transfer, is received and recorded by the Administrator.

''(4) PERMIT REQUIREMENTS.—An allocation or transfer of nitrogen oxide allowances to an affected unit shall, after recording by the Administrator, be considered to be part of the federally enforceable permit of the affected unit under this Act, without a requirement for any further review or revision of the permit.

''(e) COMPLIANCE AND ENFORCEMENT.—

''(1) IN GENERAL.—For calendar year 2012 and each calendar year thereafter, the operator of each affected unit shall surrender to the Administrator a quantity of nitrogen oxide allowances that is equal to the total tons of nitrogen oxides emitted by the affected unit during the calendar year.

''(2) MONITORING SYSTEM.—The Administrator shall promulgate regulations requiring—

''(A) operation, reporting, and certification of continuous emissions monitoring systems to accurately measure the quantity of nitrogen oxides that is emitted from each affected unit; and

''(B) verification and reporting of nitrogen oxides emissions at each affected unit.

''(3) REPORTING.—

''(A) IN GENERAL.—Not less often than quarterly, the owner or operator of an affected unit shall submit to the Administrator a report on the monitoring of emissions of nitrogen oxides carried out by the owner or operator in accordance with the regulations promulgated under paragraph (2).

''(B) AUTHORIZATION.—Each report submitted under subparagraph (A) shall be authorized by a responsible official of the affected unit, who shall certify the accuracy of the report.

''(C) PUBLIC REPORTING.—The Administrator shall make available to the public, through 1 or more published reports and 1 or more forms of electronic media, data concerning the emissions of nitrogen oxides from each affected unit.

''(4) EXCESS EMISSIONS.—

''(A) IN GENERAL.—The owner or operator of an affected unit that emits nitrogen oxides in excess of the nitrogen oxide allowances that the owner or operator holds for use for the affected unit for the calendar year shall—

''(i) pay an excess emission penalty determined under subparagraph (B); and

''(ii) offset the excess emissions by at least an equal quantity in the following calendar year or such other period as the Administrator shall prescribe.

''(B) DETERMINATION OF EXCESS EMISSION PENALTY.—The excess emission penalty for nitrogen oxides shall be equal to the product obtained by multiplying—

''(i) the number of tons of nitrogen oxides emitted in excess of the total quantity of nitrogen oxide allowances held; and

''(ii) 2 times the average price of a nitrogen oxide allowance for the Zone and calendar year in which the excess emissions occurred, as determined by the Administrator.

''(C) TREATMENT.—An excess emission penalty under subparagraph (A)(i)—

''(i) shall be due and payable without demand to the Administrator, in accordance with applicable regulations promulgated by the Administrator, by not later than 18 months after the date of enactment of the Lieberman-Warner Climate Security Act of 2008; and

''(ii) shall not diminish the liability of the owner or operator of the affected unit with respect to any fine, penalty, or assessment applicable to the affected unit for the same violation under any other provision of this Act.

**''SEC. 704. MERCURY PROGRAM.**

''(a) DEFINITION OF INLET MERCURY.—In this section, the term 'inlet mercury' means the quantity of mercury found—

''(1) in the as-fired coal of an affected unit; or

''(2) for an affected unit using coal that is subjected to an advanced coal cleaning technology, in the as-mined coal of the affected unit.

''(b) ANNUAL LIMITATION FOR CERTAIN UNITS.—On an annual average calendar year basis with respect to inlet mercury, an affected unit that commences operation on or after the date of enactment of this title shall be subject to the less stringent of the following emission limitations:

''(1) 90 percent capture of inlet mercury.

''(2) An emission rate of 0.0060 pounds per gigawatt-hour.

''(c) ANNUAL LIMITATION FOR EXISTING UNITS.—An affected unit in operation on the date of enactment of this title shall be subject to the following emission limitations on an annual average calendar year basis with respect to inlet mercury:

''(1) CALENDAR YEARS 2012 THROUGH 2015.—For the period beginning on January 1, 2012, and ending on December 31, 2015, the less stringent of the following emission limitations:

''(A) 60 percent capture of inlet mercury.

''(B) An emission rate of 0.02 pounds per gigawatt-hour.

''(2) CALENDAR YEAR 2016 AND THEREAFTER.—For calendar year 2016 and each calendar year thereafter, the less stringent of the following emission limitations:

''(A) 90 percent capture of inlet mercury.

''(B) An emission rate of 0.0060 pounds per gigawatt-hour.

''(d) AVERAGING ACROSS UNITS.—An owner or operator of an affected unit may demonstrate compliance with the annual average limitations under subsections (b) and (c) by averaging emissions from all affected units at a single facility.

''(e) MONITORING SYSTEM.—The Administrator shall promulgate regulations requiring—

''(1) operation, reporting, and certification of continuous emission monitoring systems to accurately measure the quantity of mercury that is emitted from each affected unit; and

''(2) verification and reporting of mercury emissions at each affected unit.

''(f) REPORTING.—

''(1) IN GENERAL.—Not less often than quarterly, the owner or operator of an affected unit shall submit to the Administrator a report on the monitoring of emissions of mercury carried out by the owner or operator in accordance with the regulations promulgated under subsection (e).

''(2) AUTHORIZATION.—Each report submitted under paragraph (1) shall be authorized by a responsible official of the affected unit, who shall certify the accuracy of the report.

''(3) PUBLIC REPORTING.—The Administrator shall make available to the public, through 1 or more published reports and 1 or more forms of electronic media, data concerning the emission of mercury from each affected unit.

''(g) EXCESS EMISSIONS.—

''(1) IN GENERAL.—The owner or operator of an affected unit that emits mercury in excess of the emission limitation described in subsection (b) or (c) shall pay an excess emission penalty determined under paragraph (2).

''(2) DETERMINATION OF EXCESS EMISSION PENALTY.—The excess emission penalty for mercury shall be an amount equal to $50,000 for each pound of mercury emitted in excess of the emission limitation described in subsection (b) or (c), as pro-rated for each fraction of a pound.''.

**SEC. 1753. REVISIONS TO SULFUR DIOXIDE ALLOWANCE PROGRAM.**

(a) IN GENERAL.—Title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651 et seq.) is amended by adding at the end the following:

**''SEC. 417. REVISIONS TO SULFUR DIOXIDE ALLOWANCE PROGRAM.**

''(a) DEFINITIONS.—In this section, the terms 'affected unit' and 'new unit' have the meanings given the terms in section 701.

''(b) REGULATIONS.—Not later than 2 years after the date of enactment of this section, the Administrator shall promulgate such revisions to the regulations to implement this title as the Administrator determines to be necessary to implement section 702(a).

''(c) NEW UNIT RESERVE.—

''(1) ESTABLISHMENT.—Subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a), the Administrator shall establish by regulation a reserve of allowances to be set aside for use by new units.

''(2) DETERMINATION OF QUANTITY.—The Administrator, in consultation with the Secretary of Energy, shall determine, based on projections of electricity output for new units—

''(A) not later than June 30, 2009, the quantity of allowances required to be held in reserve for new units for each of calendar years 2012 through 2015; and

''(B) not later than June 30, 2015, and June 30 of each fifth calendar year thereafter, the quantity of allowances required to be held in reserve for new units for the following 5-calendar year period.

''(3) ALLOCATION.—

''(A) REGULATIONS.—The Administrator shall promulgate regulations to establish a methodology for allocating sulfur dioxide allowances to new units.

''(B) NO JUDICIAL REVIEW.—An allocation of sulfur dioxide allowances by the Administrator under this paragraph shall not be subject to judicial review.

''(d) EXISTING UNITS.—

''(1) ALLOCATION.—

''(A) REGULATIONS.—Not later than 2 years after the date of enactment of this section, subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a), and subject to the reserve of allowances for new units under subsection (c), the Administrator shall promulgate regulations to govern the allocation of allowances to affected units that are not new units.

''(B) REQUIRED ELEMENTS.—The regulations shall provide for—

''(i) the allocation of allowances on a fair and equitable basis between affected units that received allowances under section 405 and affected units that are not new units and that did not receive allowances under that section, using for both categories of units the same or similar allocation methodology as was used under section 405; and

''(ii) the pro-rata distribution of allowances to all units described in clause (i), subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a).

''(2) TIMING OF ALLOCATIONS.—Not later than 330 days before the beginning of calendar year 2012 and each calendar year thereafter, the Administrator shall allocate allowances to affected units.

''(3) NO JUDICIAL REVIEW.—An allocation of allowances by the Administrator under this subsection shall not be subject to judicial review.''.

(b) DEFINITION OF ALLOWANCE.—Section 402 of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651a) is amended by striking paragraph (3) and inserting the following:

''(3) ALLOWANCE.—The term 'allowance' means an authorization, allocated by the Administrator to an affected unit under this title, to emit, during or after a specified calendar year, a quantity of sulfur dioxide determined by the Administrator and specified in the regulations promulgated under section 417(b).''.

(c) EXCESS EMISSIONS.—Section 411 of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651j) is amended by striking subsections (a) and (b) and inserting the following:

''(a) IN GENERAL.—The owner or operator of a new unit or an affected unit that emits sulfur dioxide in excess of the sulfur dioxide allowances that the owner or operator holds for use for the new unit or affected unit for the calendar year shall—

''(1) pay an excess emission penalty determined under subsection (b); and

''(2) offset the excess emissions by at least an equal quantity in the following calendar year or such other period as the Administrator shall prescribe.

''(b) DETERMINATION OF EXCESS EMISSION PENALTY.—

''(1) IN GENERAL.—The excess emission penalty for sulfur dioxide shall be equal to the product obtained by multiplying—

''(A) the quantity of sulfur dioxide emitted in excess of the total quantity of sulfur dioxide allowances held; and

''(B) 2 times the average price of a sulfur dioxide allowance for the calendar year in which the excess emissions occurred, as determined by the Administrator.

''(2) TREATMENT.—An excess emission penalty under paragraph (1)—

''(A) shall be due and payable without demand to the Administrator, in accordance with applicable regulations promulgated by the Administrator, by not later than 18 months after the date of enactment of the Lieberman-Warner Climate Security Act of 2008; and

''(B) shall not diminish the liability of the owner or operator of the affected unit with respect to any fine, penalty, or assessment applicable to the affected unit for the same violation under any other provision of this Act.''.

(d) TECHNICAL AMENDMENTS.—

(1) Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.)—

(A) is amended by redesignating sections 401 through 403 as sections 801 through 803, respectively; and

(B) is redesignated as title VIII and moved to appear at the end of that Act.

(2) The table of contents for title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. prec. 7651) is amended by adding at the end the following:

''Sec. 417. Revisions to sulfur dioxide allowance program.''.

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**SA 4909.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XIII, add the following:

**SEC. 1308. TRANSITION TO COMPARABLE ACTION IN EXPORT COUNTRIES.**

(a) FINDING.—Congress finds that the purposes described in section 1302 can be achieved while maintaining the growth and volume of United States exports of carbon-intensive manufactured goods, particularly to countries that have not yet adopted comparable action to regulate greenhouse gas emissions.

(b) DEFINITIONS.—In this section:

(1) CURRENTLY OPERATING FACILITY.—The term ''currently operating facility'' has the meaning given the term in section 542(a).

(2) DIRECT EXPORT.—The term ''direct export'' means a product manufactured in an eligible manufacturing facility and shipped to a destination outside of the customs territory of the United States without further processing.

(3) ELIGIBLE MANUFACTURING FACILITY.—The term ''eligible manufacturing facility'' has the meaning given the term in section 542(a).

(4) INDIRECT EXPORT.—The term ''indirect export'' means a product manufactured in an eligible manufacturing facility and further processed in the United States prior to shipment outside of the customs territory of the United States.

(c) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations establishing a system for distributing, for each of calendar years 2012 through 2030, to owners and operators of eligible manufacturing facilities, international reserve allowances established under section 1306.

(d) INDIVIDUAL ALLOCATIONS TO CURRENTLY OPERATING FACILITIES.—Under the system described in subsection (c), the quantity of international reserve allowances distributed by the Administrator for a calendar year to the owner or operator of a currently operating facility that received emission allowances under section 542(e) shall be a quantity equal in value to the product obtained by multiplying—

(1) the product obtained by multiplying—

(A) the sum of the annual direct and indirect emissions for the most recent year used in the calculation under section 542(d)(2)(A); and

(B) the average value of the emission allowances allocated to the owner or operator of the currently operating facility under section 542(e); and

(2) the proportion that—

(A) the value of production by the current operating facility that is used for direct export and indirect export during the calendar year immediately preceding the calendar year of the distribution; bears to

(B) the total value of production by the current operating facility during the calendar year immediately preceding the calendar year of the distribution.

(e) DEFICIENCY.—If, for any calendar year, there is an insufficient number of international reserve allowances established under section 1306 available for distribution to meet the requirements of the system described in subsection (c), the Administrator shall distribute in lieu of those international reserve allowances a comparable quantity of emission allowances not otherwise sold or distributed under title V.

(f) EXPORT COUNTRIES.—In completing any calculations under the system described in subsection (c), the Administrator shall take into consideration—

(1) exports of currently operating facilities to all foreign countries for each of calendar years 2012 and 2013; and

(2) exports of currently operating facilities only to foreign countries that have not adopted a program to limit greenhouse gas emissions for each of calendar years 2014 through 2030.

(g) LIMITATION ON QUANTITY FOR DISTRIBUTION.—The quantity of allowances distributed to the owner or operator of a currently operating facility for a calendar year pursuant to this section shall be limited so as to ensure that, for the calendar year, the sum of the value of the allowances so distributed and the value of the allowances allocated pursuant to section 542(e) shall not exceed the product obtained by multiplying—

(1) the emissions of the currently operating facility for the most recent year used in the relevant calculation under section 542(d)(2)(A); and

(2) the average value of the emission allowances allocated to the owner or operator of the currently operating facility under section 542(e).

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**SA 4910.** Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 4825 proposed by Mrs. BOXER (for herself, Mr. WARNER, and Mr. LIEBERMAN) to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —AVIATION AND INTERCITY TRANSPORTATION**

**SEC. —001. DEVELOPMENT OF ALTERNATIVE FUELS FOR AIRCRAFT.**

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration, in coordination with the Administrator of the National Aeronautics and Space Administration, shall research and develop viable alternative fuels whose usage results in less greenhouse gas emissions than existing jet fuel for commercial aircraft.

(b) PLAN.—Within 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) develop a research and development plan for the program described in subsection (a), containing specific research and development objectives and a timetable for achieving the objectives; and

(2) submit a copy of the plan to Congress.

**SEC. —002. AIRCRAFT ENGINE STANDARDS.**

Section 44715(a) of title 49, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) To relieve and protect the public health and welfare from aircraft noise, sonic boom, and aircraft engine emissions, the Administrator of the Federal Aviation Administration, in consultation with the Administrator of the Environmental Protection

Agency as deemed necessary, shall prescribe—

''(A) standards to measure aircraft noise and sonic boom;

''(B) regulations to control and abate aircraft noise and sonic boom; and

''(C) emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.''; and

(2) indenting paragraphs (2) and (3) 2 em spaces from the left margin.

**SEC. —003. AIRCRAFT DEPARTURE MANAGEMENT PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 5 public use airports under which the Federal Aviation Administration shall test air traffic flow management tools, methodologies, and procedures, as well as other operational improvements that will allow the agency to better supervise aircraft on the ground, reduce the length of ground holds and idling time for aircraft, and promote reduction of carbon emissions of aircraft and at airports.

(b) SELECTION CRITERIA.—In selecting from among airports at which to conduct the pilot program, the Secretary shall give priority consideration to airports at which improvements in ground control efficiencies are likely to achieve the greatest fuel savings or air quality or other environmental benefits, as measured by the amount of reduced fuel, reduced emissions, or other environmental benefits per dollar of funds expended under the pilot program.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the House of Representatives Committee on Transportation and Infrastructure of the and the Senate Committee on Commerce, Science, and Transportation a report containing—

(1) an evaluation of the effectiveness of the pilot program, including an assessment of the tools, methodologies, and procedures that provided the greatest fuel savings and air quality and other environmental benefits, and any impacts on safety, capacity, or efficiency of the air traffic control system or the airports at which affected aircraft were operating;

(2) an identification of anticipated environmental and economic benefits from implementation of the tools, methodologies, and procedures developed under the pilot program at other airports;

(3) a plan for implementing the tools, methodologies, and procedures developed under the pilot program at other airports or the Secretary's reasons for not implementing such measures at other airports; and

(4) such other information as the Secretary considers appropriate.

**SEC. —004. STUDY OF AVIATION SECTOR EMISSIONS.**

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study on emissions associated with the aviation industry, including—

(1) a determination of appropriate data necessary to make determinations of emission inventories, considering fuel use, airport operations, ground equipment, and all other sources of emissions in the aviation industry;

(2) an estimate of projected industry emissions for the following 5-year, 20-year, and 50-year periods;

(3) based on existing literature, research, and surveys to determine the existing best practices for emission reduction in the aviation sector;

(4) recommendations on areas of focus for additional research for technologies and operations with the highest potential to reduce emissions; and

(5) recommendations of actions that the Federal Government could take to encourage or require additional emissions reductions.

(b) CONSULTATION.—In developing the parameters of the study under this section, the Administrator shall conduct the study under this section in consultation with—

(1) the Administrator of the Environmental Protection Agency; and

(2) other appropriate Federal agencies and departments.

**SEC. —005. INTERCITY PASSENGER MOBILITY STUDY.**

Within 1 year after the date of enactment of this Act, the Secretary of Transportation, through the Office of Climate Change and Environment, and in coordination with the Federal Railroad Administration and other relevant modal administrations at the Department, shall complete a study to assess the impact on transportation-related emissions of developing or expending frequent and reliable intercity passenger rail transportation services in appropriate intercity travel markets of 500 miles or less. The study shall include an estimate of the potential effects of new or improved intercity passenger rail service on transportation energy consumption, carbon and other air emissions, infrastructure needs, system capacity, and congestion within such markets and shall include an estimate of the costs and benefits to the federal government, intercity passenger rail providers, and other transportation modes, as appropriate, of such an enhancement of intercity passenger rail service. The Secretary shall transmit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

**SEC. —006. IMPROVEMENTS TO OFFICE OF CLIMATE CHANGE AND ENVIRONMENT.**

Section 102(g) of title 49, United States Code, is amended by adding at the end thereof the following:

''(3) ASSESSMENT OF FEDERALLY FUNDED MAJOR TRANSPORTATION INVESTMENTS.—

''(A) Beginning 1 year after the date of enactment of the Lieberman-Warner Climate Security Act of 2008, the Office shall perform, or require the performance of, a climate-change impact assessment for each new federally-funded or federally-administered transportation infrastructure or operations project that—

''(i) receives more than half of its annual or total funding from Department of Transportation; and

''(ii) will receive more than $500,000,000 in total Federal funding.

''(B) The assessment shall include—

''(i) an estimate of the projected impact of the project or program on global climate change and carbon emissions; and

''(ii) a rating for the project based on its projected impacts.

''(C) The Office shall make each assessment available to the public in a timely manner. The Secretary shall ensure that assessments performed pursuant to this paragraph are used by the Department when completing any relevant cost/benefit or other appropriate project analysis.

''(4) COORDINATION WITH OTHER AGENCIES.—The Secretary, through the Office, shall coordinate with the National Institute of Standards and Technology, and any other relevant Federal agencies to assist in the development of climate change-related standards that affect the collection of data, assessment, or development of mitigation or adaptation strategies in the transportation industry, such as carbon accounting standards.''.

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**SA 4911.** Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 209, strike line 20 and all that follows through page 213, line 8.

On page 213, lines 22 and 23, strike ''subparagraph (B)'' and insert ''subparagraphs (B) and (E)''.

On page 214, strike lines 1 through 13 and insert the following:

(i) to fund cost-effective energy-efficiency, demand response, low-emission and high-efficiency distributed generation and distributed renewable generation programs for all fuels and energy types, or for customer-located renewable energy supplies, in the residential, commercial, and industrial sectors under the oversight of the regulatory agencies of local distribution companies;

(ii) if a local distribution company does not administer energy-efficiency programs under the supervision of a regulatory agency, to provide assistance to the appropriate State energy officer, regulatory agency, or third-party selected by the regulatory agency for use in accordance with this section; and

(iii) in the case of a non-regulated local distribution entity, such as a municipal utility, to fund cost-effective energy-efficiency, demand response, low-emission and high-efficiency distributed generation programs, and distributed renewable generation programs, for the residential, commercial and industrial consumers served by the non-regulated local distribution entity, subject to the approval of the appropriate State or local government official.

On page 215, between lines 22 and 23, insert the following:

(E) EXCEPTION.—During the 5-year period beginning on the date of enactment of this Act, if infrastructure and vendors are not available to cost-effectively implement expanded programs described in clauses (i) and (ii) of subparagraph (A), a local distribution company receiving allowances under this section, in instances determined to be appropriate by the regulatory agency with jurisdiction over the local distribution company, may provide limited rebates for customers, giving priority to low-income customers.

On page 216, strike lines 8 through 14 and insert the following:

(C)(i) how, and to what extent, the local distribution company used the proceeds of the sale of emission allowances, including the amount of the proceeds directed to each consumer class covered in the form of rebates, energy efficiency, demand response, and distributed generation; and

(ii) the quantity of energy saved or generated as a result of energy-efficiency, demand response, and distributed generation programs supported by sales of emissions allowances, including a description of the methodologies used to estimate those savings.

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**SA 4912.** Mr. WHITEHOUSE submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of

greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 196, strike line 15 and all that follows through page 198, line 16.

Strike the table that appears on page 203 after line 2 and insert the following:

| Calendar Year | Percentage for auction for Climate Change Consumer Assistance Fund |
|---|---|
| 2012 | 5.5 |
| 2013 | 5.75 |
| 2014 | 5.75 |
| 2015 | 6 |
| 2016 | 6.25 |
| 2017 | 6.5 |
| 2018 | 6 |
| 2019 | 7 |
| 2020 | 7 |
| 2021 | 7 |
| 2022 | 8 |
| 2023 | 8 |
| 2024 | 9 |
| 2025 | 9 |
| 2026 | 10 |
| 2027 | 11 |
| 2028 | 11 |
| 2029 | 12 |
| 2030 | 13 |
| 2031 | 14 |
| 2032 | 14 |
| 2033 | 14 |
| 2034 | 15 |
| 2035 | 15 |
| 2036 | 15 |
| 2037 | 15 |
| 2038 | 15 |
| 2039 | 15 |
| 2040 | 15 |
| 2041 | 15 |
| 2042 | 15 |
| 2043 | 15 |
| 2044 | 15 |
| 2045 | 15 |
| 2046 | 15 |
| 2047 | 15 |
| 2048 | 15 |
| 2049 | 15 |
| 2050 | 15. |

On page 204, between lines 2 and 3, insert the following:

**SEC. 584. USE OF FUNDS.**

(a) IN GENERAL.—Subject to section 585, of amounts deposited in the Climate Change Consumer Assistance Fund under section 583, the Administrator shall use—

(1) of the proceeds from the auction of the initial 14 percent of the percentage of emission allowances auctioned under section 582 for each calendar year—

(A) not less than 50 percent to provide assistance to low-income households under the program described in subsection (b); and

(B) not less than 50 percent to provide an earned income tax credit in accordance with subsection (c); and

(2) the remaining proceeds from auctions under section 582 to carry out other tax initiatives to protect consumers, especially consumers in greatest need, from increases in energy and other costs as a result of this Act in accordance with subsection (d).

(b) PROGRAM FOR OFFSETTING IMPACTS ON LOWER-INCOME AMERICANS.—

(1) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term ''Administrator'' means—

(i) the Administrator of the Environmental Protection Agency; or

(ii) the head of a Federal agency designated by the Administrator for the purposes of this subsection.

(B) ELDERLY OR DISABLED MEMBER.—The term ''elderly or disabled member'' has the meaning given the term in section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012).

(C) GROSS INCOME.—The term ''gross income'' means the gross income of a household that is determined in accordance with standards and procedures established under section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014).

(D) HOUSEHOLD.—The term ''household'' means—

(i) an individual who lives alone; or

(ii) a group of individuals who live together.

(E) POVERTY LINE.—The term ''poverty line'' has the meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section.

(F) PROGRAM.—The term ''Program'' means the Climate Change Rebate Program established under paragraph (2).

(G) STATE.—The term ''State'' means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands; and

(vii) the United States Virgin Islands.

(H) STATE AGENCY.—

(i) IN GENERAL.—The term ''State agency'' means an agency of State government that has responsibility for the administration of 1 or more federally aided public assistance programs within the State.

(ii) INCLUSIONS.—The term ''State agency'' includes—

(I) a local office of a State agency described in clause (i); and

(II) in a case in which federally aided public assistance programs of a State are operated on a decentralized basis, a counterpart local agency that administers 1 or more of those programs.

(2) CLIMATE CHANGE REBATE PROGRAM.—The Administrator shall establish and carry out a program, to be known as the ''Climate Change Rebate Program'', under which, at the request of a State agency, eligible low-income households within the State shall be provided an opportunity to receive compensation, through the issuance of a monthly rebate, for use in paying certain increased energy-related costs resulting from the regulation of greenhouse gas emissions under this Act.

(3) ELIGIBILITY.—The Administrator shall limit participation in the Program to—

(A) households that the applicable State agency determines meet the gross income test and the asset test standards described in section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014); and

(B) households that do not meet those standards, but that include 1 or more individuals who meet the standards described in section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114).

(C) LIMITATION.—The Administrator shall establish additional eligibility criteria to ensure that—

(i) only United States citizens, United States nationals, and lawfully residing immigrants are eligible to receive a rebate under the Program; and

(ii) each household does not receive more than 1 rebate per month under the Program.

(4) MONTHLY REBATE AMOUNT.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The rebate available under the Program for each month of a calendar year shall be established by the Energy Information Administration, in consultation with other appropriate Federal agencies, by not later than October 1 of the preceding calendar year.

(ii) LIMITATION.—The aggregate amount of rebates distributed in any given year shall not exceed the amount described in subsection (a)(1).

(iii) SHORTAGE.—If the amount described in subsection (a)(4) is inadequate to provide monthly rebates to all eligible households, the Administrator shall devise an equitable proration to ensure that all eligible households receive the same portion of the full rebate the eligible households would have been eligible to receive if adequate funds had been provided

(B) METHOD OF CALCULATION.—With respect to the calculation of a monthly rebate under this paragraph—

(i) the maximum monthly rebate provided to a household during any calendar year shall be equal to 1/12 of the projected average annual increase in the costs of goods and services for that calendar year that results from the regulation of greenhouse gas emissions under this Act, taking into consideration—

(I) the size of the household; and

(II) direct and indirect energy costs for consumers in the lowest-income quintile that is affected by the regulation of greenhouse gas emissions, net of the effect of any projected increase in Federal benefits resulting from higher cost-of-living adjustments based on higher energy-related costs;

(ii) each quintile referred to in clause (i)(II) shall—

(I) be based on income adjusted to account for household size; and

(II) represent an equal number of individuals; and

(iii) the amount shall be adjusted by household size, except that the same maximum rebate shall be—

(I) provided to households of 5 or more individuals; and

(II) based on the average cost increases for households of 5 or more individuals.

(C) GREATER THAN 130 PERCENT OF POVERTY LINE.—A household with a gross income that is greater than 130 percent of the poverty line shall not be eligible for a monthly rebate under this subsection.

(5) DELIVERY MECHANISM.—An eligible household shall receive a rebate through an electronic benefit transfer or direct deposit into a bank account designated by the eligible household.

(6) ADMINISTRATION.—

(A) IN GENERAL.—The State agency of each participating State shall assume responsibility for—

(i) the certification of households applying for monthly rebates under this subsection; and

(ii) the issuance, control, and accountability of those rebates.

(B) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—

(i) IN GENERAL.—Subject to such standards as shall be established by the Administrator, the Administrator shall reimburse each State agency for a portion, as described in clauses (ii) and (iii), of the administrative costs involved in the operation by the State agency of the Program.

(ii) INITIAL 3 YEARS.—During the first 3 fiscal years of operation of the Program, the Administrator shall reimburse each State agency for—

(I) 75 percent of the administrative costs of delivering monthly rebates under this subsection; and

(II) 75 percent of any automated data processing improvements or electronic benefit

transfer contract amendments that are necessary to provide the monthly rebates.

(iii) SUBSEQUENT YEARS.—During the fourth and subsequent years of operation of the Program, the Administrator shall reimburse each State agency for 50 percent of all administrative costs of delivering the monthly rebates under this subsection.

(C) TREATMENT.—

(i) NOT INCOME OR RESOURCES.—The value of a rebate provided under the Program shall not be considered to be income or a resource for any purpose under any Federal, State, or local law, including laws relating to an income tax, public assistance programs (such as health care, cash aid, child care, nutrition programs, and housing assistance).

(ii) ACTION BY STATE AND LOCAL GOVERNMENTS.—No State or local government a resident of which receives a rebate under the Program shall decrease any assistance that would otherwise be provided to the resident because of receipt of the rebate.

(c) SENSE OF CONGRESS REGARDING EARNED INCOME TAX CREDIT.—It is the sense of Congress that—

(1) the amounts described in subsection (a)(1)(B) should be used to enhance the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to assist lower-income workers to afford the energy-related costs associated with the regulation of greenhouse gas emissions; and

(2) the Administrator should structure the Climate Change Rebate Program under subsection (b) in a manner than ensures that the program phases out for eligible households that receive an enhanced earned income tax credit as described in this section.

(d) SENSE OF CONGRESS REGARDING ADDITIONAL TAX POLICIES.—It is the sense of Congress that any additional amounts in the Climate Change Consumer Assistance Fund should be used to fund other tax initiatives to protect consumers, especially consumers in greatest need, from increases in energy and other costs as a result of this Act.

On page 204, line 3, strike ''**584**'' and insert ''**585**''.

On page 204, strike lines 8 through 14.

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**SA 4913.** Mr. SMITH (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 4825 proposed by Mrs. BOXER (for herself, Mr. WARNER, and Mr. LIEBERMAN) to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. TAX CREDIT FOR GREEN ROOFS.**

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Green roofs reduce storm water run off.

(B) Green roofs reduce heating and cooling loads on a building.

(C) Green roofs filter pollutants and carbon dioxide out of the air.

(D) Green roofs filter pollutants and heavy metals out of rainwater.

(E) Construction of green roofs has the potential to reduce the size of heating, ventilation, and air conditioning equipment on new or retrofitted buildings resulting in capital and operational savings.

(F) Green roofs have the potential to reduce the amount of standard insulation used.

(G) After installation, green roofs can reduce sewage system loads by assimilating large amounts of rainwater.

(H) Green roofs absorb air pollution, collect airborne particulates, and store carbon.

(I) Green roofs protect underlying roof material by eliminating exposure to the sun's ultraviolet radiation and extreme daily temperature fluctuations.

(J) Green roofs reduce noise transfer from the outdoors.

(K) Green roofs insulate a building from extreme temperatures, mainly by keeping the building interior cool in the summer.

(2) PURPOSE.—The purpose of this section is to encourage the construction of green roofs thereby—

(A) reducing rooftop temperatures and heat transfer; decreasing summertime indoor temperatures;

(B) lessening pressure on sewer systems through the absorption of rainwater;

(C) filtering pollution – including heavy metals and excess nutrients;

(D) protecting underlying roof material;

(E) reducing noise;

(F) providing a habitat for birds and other small animals;

(G) improving the quality of life for building inhabitants; and

(H) reducing the urban heat island effect by decreasing rooftop temperatures.

(b) GREEN ROOFS ELIGIBLE FOR ENERGY CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(3) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a qualified green roof (as defined in section 25D(d)(4)(B)).''.

(2) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) of such Code is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) so much of the credit determined under section 46 as is attributable to the credit determined under section 48, and''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2008, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

(c) CREDIT FOR RESIDENTIAL GREEN ROOFS.—

(1) IN GENERAL.—

(A) ALLOWANCE OF CREDIT.—Section 25D(a) of the Internal Revenue Code of 1986 (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 green roof property expenditures made by the taxpayer during such year.''.

(B) LIMITATION.—Section 25D(b)(1) of such Code (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) $2,000 with respect to any qualified green roof property expenditures.''.

(C) QUALIFIED GREEN ROOF PROPERTY EXPENDITURES.—Section 25D(d) of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED GREEN ROOF PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified green roof property expenditure' means an expenditure for a qualified green roof which is installed on a building located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GREEN ROOF.—The term 'qualified green roof' means any green roof at least 40 percent of which is vegetated.

''(C) GREEN ROOF.—The term 'green roof' means any roof which consists of vegetation and soil, or a growing medium, planted over a waterproofing membrane and its associated components, such as a protection course, a root barrier, a drainage layer, or thermal insulation and an aeration layer.''.

(D) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) of such Code (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 any qualified green roof property expenditures.''.

(2) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 25D of the internal Revenue Code of 1986 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.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 23(b)(4)(B) of the Internal Revenue Code of 1986 is amended by inserting ''and section 25D'' after ''this section''.

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

(iii) Section 25B(g)(2) of such Code is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

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

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to property placed in service after December 31, 2008, in taxable years ending after such date.

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

**SA 4914.** Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—NUCLEAR POWER PLANTS**

**SEC. 1801. CONSTRUCTION PERMITS AND OPERATING LICENSES.**

Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by striking subsection (b) and inserting the following:

''(b) ISSUANCE OF LICENSES.—

''(1) IN GENERAL.—After a public hearing under section 189a.(1)(A), the Commission shall issue to the applicant a combined construction and operating license, if—

''(A) the application contains sufficient information to support the issuance of a combined license; and

''(B) the Commission determines that there is reasonable assurance that the facility—

''(i) will be constructed; and

''(ii) will operate in conformity with the license, the requirements of this Act, and the rules and regulations of the Commission.

''(2) INCLUSIONS.—The Commission shall identify in the combined license—

''(A) each inspection, test, and analysis (including as applicable to emergency planning) that the licensee shall be required to perform; and

''(B) the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility—

''(i) has been constructed; and

''(ii) will be operated in conformity with the license, the requirements of this Act, and the rules and regulations of the Commission.

''(3) ACTION BY COMMISSION.—

''(A) IN GENERAL.—After issuing a combined license under this subsection, the Commission shall—

''(i) ensure that each required inspection, test, and analysis is performed; and

''(ii) prior to operation of the applicable facility, issue a determination that those requirements have been met.

''(B) NO HEARING REQUIRED.—Except as otherwise provided in section 189a.(1)(B), a determination of the Commission under this paragraph shall not require a hearing.

''(4) NEW LICENSING GOALS.—For each 6 successful issuances by the Commission of licenses under this subsection, not later than 180 days after the date on which the final such license is issued, the Commission shall publish a report, including recommendations, that describes—

''(A) potential impediments or improvements that could enhance the regulatory review process for licensing of constructing new civilian nuclear power plants;

''(B) workforce and technology needs of the Commission; and

''(C) requirements that would be required for the Commission to safely license at least 6 new nuclear plants per year through 2050.''.

**SEC. 1802. HEARINGS AND JUDICIAL REVIEW.**

Section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) is amended by striking ''a.(1)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(a) HEARINGS; REVIEW.—

''(1) HEARINGS.—

''(A) PARTIES.—

''(i) IN GENERAL.—In any proceeding under this Act for the granting, suspending, revoking, or amending of any license or construction permit or application to transfer control, in any proceeding for the issuance or modification of rules and regulations regarding the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under section 153, 157, 186c., or 188, the Commission shall—

''(I) grant a hearing on request of any person the interests of which may be affected by the proceeding; and

''(II) admit any such person as a party to the proceeding.

''(ii) NO REQUEST.—

''(I) IN GENERAL.—In the absence of a request by a person described in clause (i), the Commission may issue a construction permit, an operating license, or an amendment to a construction permit or an amendment to an operating license without a hearing by publishing in the Federal Register a notice of the intended issuance not later than 30 days before the date of issuance.

''(II) EXCEPTION.—The notice requirement under subclause (I) shall not apply with respect to any application for an amendment to a construction permit or an amendment to an operating license on a determination by the Commission that the amendment involves no significant hazard consideration.''.

**SEC. 1803. SENSE OF SENATE.**

It is the sense of the Senate that the Nuclear Regulatory Commission should be given all necessary funding and assistance required by the Commission to meet the increasing demand of license applications before the Commission.

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**SA 4915.** Mr. REID (for Mrs. CLINTON) submitted an amendment intended to be proposed by Mr. REID to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 19, strike lines 11 through 16 and insert the following:

(10) CARBON DIOXIDE EQUIVALENT.—The term ''carbon dioxide equivalent'' means, for each HFC, non-HFC greenhouse gas, black carbon, or tropospheric ozone precursor, the quantity of the HFC, non-HFC greenhouse gas, black carbon, or tropospheric ozone precursor that the Administrator determines makes the same contribution to global warming as 1 metric ton of carbon dioxide.

On page 31, between lines 18 and 19, insert the following:

(52) TROPOSPHERIC OZONE PRECURSOR.—The term ''tropospheric ozone precursor'' means each of the oxides of nitrogen, nonmethane volatile organic hydrocarbons, methane, and carbon monoxide.

On page 41, strike lines 11 through 17 and insert the following:

(a) PROGRAM.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Administrator shall by regulation establish and carry out a program under which the Administrator shall provide grants to entities in the United States for—

(A) the purchase of advanced medium- and heavy-duty hybrid commercial vehicles, based on demonstrated increases in fuel efficiency of those commercial vehicles; and

(B) the purchase and installation on existing medium- and heavy-duty diesel commercial vehicles or commercial nonroad equipment of diesel particulate filters that are verified by the Administrator or the California Air Resources Board, based on demonstrated reductions of black carbon emissions from those diesel vehicles or nonroad equipment.

(2) NO DUPLICATE ASSISTANCE.—No entity receiving grants for diesel retrofits under this Act or any other Federal program shall receive payment under this subsection for emission reductions for the same diesel engine.

Beginning on page 41, strike line 20 and all that follows through page 42, line 22, and insert the following:

(1) only a purchaser of a hybrid commercial vehicle weighing at least 8,500 pounds, or a diesel particulate filter installed on a commercial diesel vehicle weighing at least 8,500 pounds or installed on a piece of nonroad equipment with an engine rating of at least 75 horsepower, shall be eligible for grants under subsection (a);

(2) the purchaser of a qualifying hybrid vehicle or verified diesel particulate filter shall have certainty, at the time of purchase, of—

(A) the amount of the grant to be provided; and

(B) the time at which grant funds shall be available;

(3) the amount of —

(A) the grant provided under subsection (a)(1)(A) shall increase in direct proportion to the fuel efficiency of a commercial vehicle to be purchased using funds from the grant; and

(B) the grant provided under subsection (a)(1)(B) shall increase in direct proportion to the reduction in black carbon emissions from the retrofit of a qualifying diesel vehicle or nonroad equipment with a verified diesel particulate filter to be purchased using funds from the grant;

(4) the amounts made available to provide grants under subsection (a)(1) shall be allocated by the Administrator for at least 3 classes of vehicle weight, to ensure—

(A) adequate availability of grant funds for different categories of commercial vehicles; and

(B) that the amount of a grant provided for the purchase of a heavier, more expensive vehicle is proportional to the amount of a grant provided for the purchase of a lighter, less expensive vehicle; and

(5) the amount provided per grant under subparagraph (A) or (B) of subsection (a)(1) shall decrease over time to encourage early purchases of qualifying commercial hybrid vehicles or verified diesel particulate filters, respectively.

On page 43, strike lines 1 through 5 and insert the following:

(d) TERMINATION OF AUTHORITY.—

(1) HYBRID FLEETS.—The program established under subsection (a)(1)(A), and all authority provided under that subsection, terminate on the date on which the clean medium- and heavy-duty hybrid fleets program is established under section 1103.

(2) BLACK CARBON EMISSIONS.—The program established under subsection (a)(1)(B), and all authority provided under that subsection, terminate on the date on which the diesel engine black carbon emission reduction program is established under section 527.

On page 43, line 10, insert '', the reduction of black carbon emissions,'' after ''sustainable economic growth''.

On page 45, line 1, strike ''greenhouse gas emission mitigations'' and insert ''greenhouse gas or black carbon emission mitigations, as applicable''.

On page 45, lines 7 and 8, strike ''greenhouse gas emission mitigations'' and insert ''greenhouse gas or black carbon emission mitigations, as applicable''.

On page 46, line 25, insert ''or black carbon'' after ''greenhouse gas''.

On page 48, line 10, insert ''and black carbon'' after ''greenhouse gas''.

On page 48, line 13, insert ''and black carbon'' after ''greenhouse gas''.

On page 48, line 20, insert ''and black carbon'' after ''greenhouse gas''.

On page 50, line 9, insert ''and black carbon'' after ''greenhouse gas''.

On page 51, line 13, insert ''and black carbon'' after ''greenhouse gas''.

Beginning on page 60, strike line 6 and all that follows through page 61, line 18, and insert the following:

**SEC. 124. STUDY BY ADMINISTRATOR OF BLACK CARBON, METHANE, AND TROPOSPHERIC OZONE PRECURSOR EMISSIONS.**

(a) STUDY.—The Administrator shall conduct a study of black carbon, methane, and tropospheric ozone precursor emissions, including—

(1) an identification of—

(A) the major sources of black carbon, methane, and tropospheric ozone precursor emissions in the United States and throughout the world, and an estimate of the quantity of emissions, and effects on the climate caused by the emissions, from those sources;

(B) key outstanding research questions that constrain the ability to provide the information described in subparagraph (A), including the development of a 2-year research plan and recommendations for funding; and

(C) the most effective and cost-effective strategies for additional domestic and international reductions in black carbon, methane, and tropospheric ozone and the likely climate benefits of each of those reductions, including—

(i) ways to expand the effectiveness of the existing ''methane-to-markets'' program;

(ii) regulatory strategies to reduce methane emissions from major sources, including landfills, coal mines, combined animal feeding operations, pipelines, and rice cultivation;

(iii) the latest scientific information and data relevant to the climate-related impacts of black carbon emissions from diesel engines and other sources;

(iv) carbon dioxide equivalency factors for black carbon classified by specific black carbon sources, and the establishment of such factors pursuant to section 202(*l*);

(v) carbon dioxide equivalency factors for precursors of tropospheric ozone, and establishment of those factors pursuant to section 202(*l*);

(vi) eligible diesel and other direct emission control technologies that remove black carbon effectively;

(vii) full lifecycle and net climate impacts of installation of diesel particulate filters on existing diesel on- and off-road engines, including verification of those lifecycles and impacts; and

(viii) diesel and other direct emission control technologies, operations, or strategies that remove or reduce black carbon, including estimates of costs and effectiveness; and

(2) recommendations of the Administrator regarding—

(A) areas of focus for additional research for technologies, operations, and strategies with the highest potential to reduce black carbon, methane, and tropospheric ozone precursor emissions;

(B) actions that the Federal Government could take to encourage or require additional black carbon, methane, and tropospheric ozone precursor emission reductions; and

(C) the development of a climate-beneficial tropospheric ozone reduction strategy, and a description of the relationship of that strategy to the ozone reduction strategy in effect as of the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

On page 71, between lines 14 and 15, insert the following:

(l) DETERMINATION OF CARBON DIOXIDE EQUIVALENTS FOR GREENHOUSE GASES, BLACK CARBON, AND TROPOSPHERIC OZONE PRECURSORS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall determine the carbon dioxide equivalent for—

(1) each HFC and non-HFC greenhouse gas; and

(2) black carbon and tropospheric ozone precursor, if the Administrator first determines that equivalents can be established with reasonable scientific certainty.

On page 80, line 14, insert ''and black carbon'' after ''greenhouse gas''.

On page 80, line 21, insert ''and black carbon'' after ''greenhouse gas''.

On page 80, strike lines 23 through 25.

On page 81, line 1, strike ''(4)'' and insert ''(3)''.

On page 81, line 4, strike ''(5)'' and insert ''(4)''.

On page 81, line 5, insert ''and black carbon'' after ''greenhouse gas''.

On page 81, line 7, insert ''and'' after the semicolon.

On page 81, strike lines 8 and (9) and insert the following:

(5) with respect to offsets from agricultural, forestry, or other land use-related projects—

(A) require that the project developer for an offset project establish the project baseline and register emissions with the Registry;

(B) establish procedures for project initiation and approval, in accordance with section 304;

(C) establish procedures for third-party verification, registration, and issuance of offset allowances, in accordance with section 305;

(D) ensure permanence of offsets by mitigating and compensating for reversals, in accordance with section 306; and

(E) assign a unique serial number to each offset allowance issued under this section.

On page 81, strike lines 10 through 17.

On page 85, strike lines 10 through 12 and insert the following:

(D);

(F) reductions in black carbon emissions from heavy-duty diesel engines and diesel nonroad equipment operating in the United States, if the Administrator has made a determination of the carbon dioxide equivalent for black carbon under section 202(*l*); and

(G) any other category proposed to the Administrator by petition.

On page 86, line 11, strike ''include'' and insert ''with respect to agricultural, forestry, or other land use-related offset projects, include''.

On page 91, line 12, insert ''for agricultural, forestry, or other land use-related offset projects'' after ''issue a methodology''.

On page 112, between lines 2 and 3, insert the following:

**SEC. 312. BLACK CARBON REDUCTION OFFSET PROJECTS.**

Offset projects described in section 302(b)(2)(F) shall not be subject to sections 304 through 310.

On page 159, line 5, strike ''The Administrator'' and insert ''Beginning in calendar year 2020, the Administrator''.

On page 159, between lines 18 and 19, insert the following:

(c) REDUCING BLACK CARBON AND METHANE EMISSIONS OVER THE SHORT TERM.—

(1) REDUCTION OF BLACK CARBON EMISSIONS FROM DIESEL ENGINES.—

(A) IN GENERAL.—The Administrator shall use a portion of the proceeds from each cost-containment auction for each of calendar years 2013 through 2019 to carry out the program established by the Administrator under subparagraph (B).

(B) PROGRAM.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall by regulation establish a program to achieve real, verifiable, additional, permanent, and enforceable reductions in emissions of black carbon from diesel engines on heavy-duty vehicles and nonroad equipment in the United States.

(ii) REQUIREMENTS.—

(I) IN GENERAL.—Subject to subclause (II), the regulations promulgated under clause (i) shall provide for full or partial payment to individual entities for verified costs of installation of diesel particulate filters that are verified by the Administrator or the California Air Resources Board.

(II) NO DUPLICATE ASSISTANCE.—No entity receiving emission allowances for black carbon reductions or diesel retrofits under this Act or any other Federal program shall receive payment under this subsection for black carbon emission reductions or retrofits for the same diesel engine.

(2) REDUCTION OF METHANE AND NON-DIESEL BLACK CARBON EMISSIONS.—The Corporation shall use a portion of the proceeds from each cost-containment auction for each of calendar years 2013 through 2019 to carry out a program that shall, by regulation, be established by the Administrator to achieve real, verifiable, additional, permanent, and enforceable reductions in emissions of methane and black carbon from sources other than diesel engines.

On page 196, line 21, strike ''2 percent'' and insert ''1 percent''.

On page 352, between lines 16 and 17, insert the following:

**Subtitle E—Reducing Black Carbon Emissions From Diesel Engines**

**SEC. 1141. ALLOCATION.**

Not later than April 1 of the year immediately following the determination by the Administrator of the carbon dioxide equivalent for black carbon pursuant to section 202(*l*), and annually thereafter through 2017, the Administrator shall allocate 1 percent of the quantity of emission allowances established pursuant to section 201(a) for the following calendar year for real, verifiable, additional, permanent, and enforceable reductions in emissions of black carbon from heavy-duty diesel engines and nonroad diesel equipment in the United States that are achieved through the use of—

(1) diesel particulate filters that are verified by the Administrator or the California Air Resources Board; or

(2) other emission reduction methodology that the Administrator determines will provide an equal or greater reduction in diesel black carbon emissions.

**SEC. 1142. DISTRIBUTION.**

Not later than 1 year after the date of enactment of this Act, the Administrator shall establish a program that includes a system for distributing to individual entities the emission allowances allocated under section 1141, based on verified reductions in black carbon emissions.

On page 438, line 10, insert '', the reduction of black carbon emissions,'' after ''sustainable economic growth''.

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**SA 4916.** Mr. WYDEN (for himself, Mr. BINGAMAN, Mr. DOMENICI, Mr. JOHNSON, Mr. THUNE, Mr. SALAZAR, Mr. SMITH, Mr. BARRASSO, Mr. ENZI, Mrs. FEINSTEIN, Mr. CRAPO, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for

other purposes; which was ordered to lie on the table; as follows:

On page 342, strike lines 10 and 11 and insert the following:
United States.'';

(3) by striking subparagraph (L) (as redesignated by paragraph (1)) and inserting the following:

''(L) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials, precommercial thinnings, or invasive species from National Forest system land and public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 17902)) that—

''(I) are byproducts of preventive treatments that are removed (such as trees, wood, brush, thinnings, chips, and slash)—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore ecosystem health;

''(II) would not otherwise be used for higher-value products; and

''(III) are removed in accordance with—

''(aa) applicable law and land management plans; and

''(bb) the requirement for old-growth maintenance, restoration, and management direction of subsection (e)(2) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and the requirements for large-tree retention of subsection (f) of that section; or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste materials (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''; and

(4) by striking subparagraph (O) (as redesig-

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**SA 4917.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 291, between lines 4 and 5, insert the following:

(10) Municipal solid waste.

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**SA 4918.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 459, strike lines 1 through 7 and insert the following:

**SEC. 1403. DEPOSITS.**

Except as provided in section ___01(b), the Administrator shall deposit all proceeds of auctions conducted pursuant to section 1402, immediately on receipt of those proceeds, in the Deficit Reduction Fund.

**SEC. 1404. DISBURSEMENTS FROM FUND.**

No disbursement shall be made from the Deficit Reduction Fund, except pursuant to an appropriation Act.

**TITLE ___FUEL ASSISTANCE FUND**

**SEC. ___01. FUEL ASSISTANCE FUND.**

(a) IN GENERAL.—There is established in the Treasury of the United States a fund, to be known as the ''Fuel Assistance Fund''.

(b) DEPOSITS.—The Administrator shall deposit such proceeds of auctions conducted pursuant to section 1402 as may be necessary to provide sufficient funds for the purposes of subsection (c).

(c) DISBURSEMENTS.—The Administrator shall, without further appropriation, transfer such funds from the Fuel Assistance Fund to the Highway Trust Fund and the Airport and Airways Trust Fund as are necessary to equal the reduction in revenues transferred to such Trust Funds resulting from the operation of section ___02.

**SEC. ___02. RATE REDUCTION IN FEDERAL MOTOR FUEL EXCISE TAXES EQUIVALENT TO INCREASE IN MOTOR FUEL PRICES RESULTING FROM THIS ACT.**

The Administrator of the Energy Information Administration shall determine and report to the Secretary of the Treasury on a quarterly basis any necessary reduction in the rates of tax under sections 4041 and 4081 of the Internal Revenue Code of 1986 equivalent to the estimated increase in prices in the motor fuels subject to such rates of tax resulting from the operation of this Act for such quarter. Notwithstanding any other provision of the Internal Revenue Code of 1986, the Secretary of the Treasury shall by regulation provide for such quarterly reductions through the use of floor stock refunds and floor stock taxes.

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**SA 4919.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, strike lines 14 through 19 and insert the following:

(1) IN GENERAL.—The Administrator shall include, in the regulations promulgated pursuant to subsection (a), provisions for distributing solely among rural electric cooperatives (in addition to allowances made available to rural electric cooperatives under subsection (a) and subtitle A of Title VI), 1 percent of the quantity of emission allowances established pursuant to section 201(a) for each of calendar years 2012 through 2030.

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**SA 4920.** Mr. REID (for Mr. BYRD (for himself, Mrs. MURRAY, Mr. DORGAN, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, and Ms. MIKULSKI)) submitted an amendment intended to be proposed by Mr. REID to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, strike beginning with line 1 through page 144, line 21, and insert the following:

**SEC. 434. CONGRESSIONAL OVERSIGHT OF BOARD EXPENDITURES.**

(a) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Office of Management and Budget shall identify the portion thereof intended for the support of the board established by section 432 and include a statement by such board—

(1) showing the amount requested by the board in its budgetary presentation to the Office of Management and Budget; and

(2) an assessment of the budgetary needs of the board.

(b) DIRECT TRANSMITTAL TO CONGRESS.—The board established by section 431 shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communications by the board established by section 431 with Congress, or a committee or Member of Congress, about the information.

On page 145, line 17, strike ''436'' and insert ''435''.

On page 163, line 2, insert ''(A) IN GENERAL.—'' before ''The''.

On page 163, after line 5, insert the following:

(b) TREATMENT OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds collected under this section—

(1) shall be credited as offsetting collections to carry out activities authorized under section 534;

(2) shall be available for expenditure only to pay the costs of carrying out the programs under section 534; and

(3) shall be available only to the extent provided for in advance in an appropriations Act.

On page 164, line 2, strike ''further appropriation or''.

On page 164, line 12, strike ''further appropriation or''.

On page 164, lines 19 and 20, strike ''further appropriations or''.

On page 224, strike lines 6 through 11 and insert the following:

(f) TREATMENT OF PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, all proceeds collected under section 611—

(1) shall be credited as offsetting collections to carry out the grants described in subsections (g) through (i);

(2) shall be available to the Secretary of Transportation for expenditure only to pay the costs of carrying out the grants described in subsections (g) through (i);

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 225, line 16, strike ''Administrator'' and insert ''Secretary of Transportation''.

On page 228, line 24, strike ''Administrator'' and insert ''Secretary of Transportation''.

On page 241, after line 4, insert the following:

(c) USE OF FUNDS.—Notwithstanding section 3302 of title 31, United States Code, any proceeds collected under section 613—

(1) shall be credited as offsetting collections to carry out section 614;

(2) shall be available for expenditure only to pay for the costs of carrying out the activities described in section 614(d);

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 264, line 14, strike ''Amounts'' and insert ''Notwithstanding section 3302 of title 31, United States Code, amounts''.

On page 264, strike lines 21 through 25 and insert the following:

7403, 7601(d)) shall be—

(1) credited as offsetting collections to carry out the program under subsection (b);

(2) shall be available for expenditure only to pay the costs of carrying out the program under subsection (b) in accordance with the purposes described in paragraph (2) of subsection (b);

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 270, line 15, strike ''Deposits'' and insert ''Notwithstanding section 3302 of title 31, United States Code, deposits''.

On page 270, line 21, strike ''needs; and'' and insert ''needs;''.

On page 270, strike lines 22 through 25 and insert the following:

(B) shall be credited as offsetting collections to carry out the purposes of the Land and Water Conservation Fund;

(C) shall be available only to the extent provided for in advance in an appropriations Act; and

(D) shall remain available until expended.

On page 271, lines 1 and 2, strike ''deposited in'' and insert ''appropriated from''.

On page 271, line 3, strike ''(1)'' and insert ''(2)''.

On page 297, strike lines 11 through 18 and insert the following:

Notwithstanding section 3302 of title 31, United States Code, any proceeds collected under section 903—

(1) shall be credited as offsetting collections to carry out section 906;

(2) shall be available for expenditure only to pay the costs of carrying out section 906;

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 304, strike lines 5 through 7 and insert the following:

Notwithstanding section 3302 of title 31, United States Code, any proceeds collected under section 911—

(1) shall be credited as offsetting collections to carry out subtitle B or section 5012 of the PACE-Energy Act (42 U.S.C. 16538);

(2) shall be available for expenditure only to pay the costs of carrying out subtitle B or section 5012 of the PACE-Energy Act (42 U.S.C. 16538);

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 305, strike lines 6 through 15 and insert the following:

Notwithstanding section 3302 of title 31, United States Code, any proceeds under section 1002—

(1) shall be credited as offsetting collections to carry out the Kick-Start Program under section 1005;

(2) shall be available for expenditure only to pay the costs of carry out the Kick-Start Program under section 1005;

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 333, strike lines 18 through 24, and insert the following:

Notwithstanding section 3302 of title 31, United States Code, all proceeds collected under section 1112—

(1) shall be credited as offsetting collections to carry out awards described in section 1115;

(2) shall be available for expenditure only to pay the costs of carry out the awards described in section 1115;

(3) shall be available only to the extent provided for in advance in an appropriations Act; and

(4) shall remain available until expended.

On page 356, line 10, strike ''Amounts'' and insert ''Notwithstanding section 3302 of title 31, United States Code, amounts''.

On page 356, strike lines 13 through 21 and insert the following:

(1) credited as offsetting collections;

(2) shall be available only to the extent provided for in advance in an appropriations Act;

(3) shall remain available until expended; and

(4) shall be used to pay for wildland fire suppression activities, the costs of which are in excess of amounts annually appropriated to the Secretary of the Interior (referred to in this section as the ''Secretary'') for normal, nonemergency wildland fire suppression activities.

On page 358, strike lines 13 through 20 and insert the following:

(1) credited as offsetting collections;

(2) shall be available only to the extent provided for in advance in an appropriations Act;

(3) shall remain available until expended; and

(4) shall be used to pay for wildland fire suppression activities, the costs of which are in excess of amounts annually appropriated to the Secretary of Agriculture (referred to in this section as the ''Secretary'') for normal, nonemergency wildland fire suppression activities.

On page 371, line 1, strike ''Amounts'' and insert ''Notwithstanding section 3302 of title 31, United States Code, amounts''.

On page 371, after line 3, insert the following:

(1) credited as offsetting collections;

(2) shall be available only to the extent provided for in advance in an appropriations Act;

(3) shall remain available until expended; and

On page 371, line 4, strike ''(1)'' and insert ''(4)''.

On page 371, lines 11 and 12, strike ''subtitle; and'' and insert ''subtitle;''.

On page 371, strike lines 13 and 14.

On page 441, line 23, strike ''All'' and insert ''(1) IN GENERAL.—''.

On page 441, line 24, strike '', without further appropriation or fiscal year limitation,''.

On page 442, after line 2, insert the following:

(2) TREATMENT OF FUNDS.—Notwithstanding section 3302 of title 31, United States Code, the funds made available pursuant to this subsection shall be—

(A) credited as offsetting collections to carry out activities authorized by section 114;

(B) available for expenditure only to pay the costs of carrying out the program established by section 114; and

(C) available only to the extent provided for in advance in an appropriations Act.

On page 449, strike beginning with line 20 through page 450, line 2, and insert the following:

(1) USE OF FUNDS.—

(A) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, amounts deposited in the Fund under section 1331(b)(3) shall be made available to carry out—

(i) the Program; and

(ii) international activities that meet the requirements described in paragraph (8).

(B) TREATMENT OF FUNDS.—The amounts deposited in the Fund under section 1331(b)(3) shall be—

(i) credited as offsetting collections to carry out activities authorized under section 1332;

(ii) available for expenditure only to pay the costs of carrying out the program under such section; and

(iii) available only to the extent provided for in advance in an appropriations Act.

At the end of the bill insert the following:

**SEC. ___. BUDGETARY TREATMENT.**

Notwithstanding any provision of title III of the Congressional Budget Act of 1974, for fiscal year 2012 and thereafter, the Committees on the Budget of the Senate and of the House of Representatives shall treat any amounts in this Act that—

(1) are credited as offsetting collections; and

(2) are available only to the extent provided in advance in an appropriations Act;

as discretionary offsets to appropriations made in annual appropriations Acts.

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**SA 4921.** Mr. GRAHAM (for himself, Mr. MCCAIN, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IX, insert the following:

**Subtitle C—Nuclear Power Generation**

**PART I—NUCLEAR POWER TECHNOLOGY AND MANUFACTURING**

**SEC. 921. DEFINITIONS.**

In this part:

(1) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the costs of engineering tasks relating to—

(A) the redesign of manufacturing processes to produce qualifying components and nuclear power generation technologies;

(B) the design of new tooling and equipment for production facilities that produce qualifying components and nuclear power generation technologies; and

(C) the establishment or expansion of manufacturing operations for qualifying components and nuclear power generation technologies.

(2) NUCLEAR POWER GENERATION.—The term ''nuclear power generation'' means generation of electricity by an electric generation unit that—

(A) emits no carbon dioxide into the atmosphere;

(B) uses uranium as its fuel source; and

(C) was placed into commercial service after the date of enactment of this Act.

(3) NUCLEAR POWER GENERATION TECHNOLOGY.—The term ''nuclear power generation technology'' means a technology used to produce nuclear power generation.

(4) QUALIFYING COMPONENT.—The term ''qualifying component'' means a component that the Secretary of Energy determines to be specially designed for nuclear power generation technology.

**SEC. 922. NUCLEAR POWER TECHNOLOGY FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Nuclear Power Technology Fund''.

(b) AUCTIONS.—

(1) IN GENERAL.—In accordance with paragraph (2), to raise funds for deposit in the Nuclear Power Technology Fund, the Administrator shall auction—

(A) for each of calendar years 2012 through 2021, 2 percent of the emission allowances established pursuant to section 201(a) for that calendar year;

(B) for each of calendar years 2022 through 2030, 1 percent of the emission allowances established pursuant to section 201(a) for that calendar year; and

(C) for each of calendar years 2031 through 2050, 1 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(c) DEPOSITS.—Immediately upon the receipt of proceeds of auctions conducted pursuant to subsection (b), the Administrator shall deposit all of the proceeds into the Nuclear Power Technology Fund.

(d) USE OF FUNDS.—For each of calendar years 2012 through 2050, all funds deposited in the Nuclear Power Technology Fund for the preceding year under subsection (c) shall be made available, without further appropriation or fiscal year limitation, to the Climate Change Technology Board established under section 431 to carry out the financial incentives program established under section 924.

**SEC. 923. SPENT FUEL RECYCLING PROGRAM.**

(a) PURPOSE.—It is the policy of the United States to recycle spent nuclear fuel to advance energy independence by maximizing the energy potential of nuclear fuel in a proliferation-resistant manner that reduces the quantity of waste dedicated to a permanent Federal repository.

(b) SPENT FUEL RECYCLING RESEARCH AND DEVELOPMENT FACILITY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall begin construction of a spent fuel recycling research and development facility.

(2) PURPOSE.—The facility described in paragraph (1) shall serve as the lead site for continuing research and development of advanced nuclear fuel cycles and separation technologies.

(3) SITE SELECTION.—In selecting a site for the facility, the Secretary shall give preference to a site that has—

(A) the most technically sound bid;

(B) a demonstrated technical expertise in spent fuel recycling;

(C) proximity to existing and proposed nuclear reactors; and

(D) community support.

(c) CONTRACTS.—The Secretary shall use amounts in the Nuclear Power Technology Fund, and such other amounts as are appropriated to carry out this section, to enter into long-term contracts with private sector entities for the recycling of spent nuclear fuel.

(d) COMPETITIVE SELECTION.—Contracts awarded under subsection (c) shall be awarded on the basis of a competitive bidding process that—

(1) maximizes the competitive efficiency of the projects funded;

(2) best serves the goal of reducing the amount of waste requiring disposal under this Act; and

(3) ensures adequate protection against the proliferation of nuclear materials that could be used in the manufacture of nuclear weapons.

(e) REGULATORY AUTHORITY.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, in collaboration with the Secretary of Energy, shall promulgate regulations for the licensing of facilities for recovery and use of spent nuclear fuel that provide reasonable assurance that licenses issued for that purpose will not be counter to the defense, security, and national interests of the United States.

**SEC. 924. FINANCIAL INCENTIVES PROGRAM.**

(a) IN GENERAL.—For each fiscal year beginning on or after October 1, 2010, the Climate Change Technology Board established under section 431 shall competitively award financial incentives under this part in the following technology categories:

(1) The production of electricity from new nuclear power generation.

(2) Facility establishment or conversion by manufacturers and suppliers of nuclear power generation technology and qualifying components.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Climate Change Technology Board shall make awards under this section to—

(A) domestic producers of new nuclear power generation;

(B) manufacturers and suppliers of nuclear power generation technology and qualifying components; and

(2) BASIS FOR AWARDS.—The Climate Change Technology Board shall make awards under this section—

(A) in the case of producers of new nuclear power generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated;

(B) in the case of manufacturers and suppliers of nuclear power generation technology and qualifying components, based on the criteria described in section 926; and

(C) in the case of owners or operators of existing nuclear power generating facilities, based upon criteria described in section 926.

(3) ACCEPTANCE OF BIDS.—In making awards under this subsection, the Climate Change Technology Board shall—

(A) solicit bids for reverse auction from appropriate producers, manufacturers, and suppliers, as determined by the Climate Change Technology Board; and

(B) award financial incentives to the producers, manufacturers, and suppliers that submit the lowest bids that meet the requirements established by the Climate Change Technology Board.

**SEC. 925. FORMS OF AWARDS.**

(a) NUCLEAR POWER GENERATORS.—

(1) IN GENERAL.—An award for nuclear power generation under this part shall be in the form of a contract to provide a production payment for commercial service of the generation unit in an amount equal to the product obtained by multiplying—

(A) the amount bid by the producer of the nuclear power generation; and

(B) except as provided in paragraph (2), the net megawatt-hours generated by the nuclear power generation unit each year during the first 10 years following the end of the calendar year of the award.

(2) FIRST YEAR.—For purposes of paragraph (1)(B), the first year of commercial service of the generating unit shall be within 5 years of the end of the calendar year of the award.

(b) MANUFACTURING OF NUCLEAR POWER GENERATION TECHNOLOGY.—

(1) IN GENERAL.—An award for facility establishment or conversion costs for nuclear power generation technology under this part shall be in an amount equal to not more than 30 percent of the cost of—

(A) establishing, reequipping, or expanding a manufacturing facility to produce—

(i) qualifying nuclear power generation technology; or

(ii) qualifying components;

(B) engineering integration costs of nuclear power generation technology and qualifying components; and

(C) property, machine tools, and other equipment acquired or constructed primarily to enable the recipient to test equipment necessary for the construction or operation of a nuclear power generation facility.

(2) AMOUNT.—The Climate Change Technology Board shall use the amounts made available to carry out this section to make awards to entities for the manufacturing of nuclear power generation technology.

**SEC. 926. SELECTION CRITERIA.**

In making awards under this part to producers, manufacturers, and suppliers of nuclear power generation technology and qualifying components, the Climate Change Technology Board shall select producers, manufacturers, and suppliers that—

(1) document the greatest use of domestically-sourced parts and components;

(2) return to productive service existing idle manufacturing capacity;

(3) are located in States with the greatest availability of unemployed manufacturing workers;

(4) demonstrate a high probability of commercial success; and

(5) meet other appropriate criteria, as determined by the Climate Change Technology Board.

**PART II—ACCELERATED DEPRECIATION**

**SEC. 931. 5-YEAR ACCELERATED DEPRECIATION PERIOD FOR NEW NUCLEAR POWER PLANTS.**

(a) IN GENERAL.—Subparagraph (B) of section 168(e)(3) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any advanced nuclear power facility (as defined in section 45J(d)(1), determined without regard to subparagraph (B) thereof) the original use of which commences with the taxpayer after December 31, 2008.''.

(b) CONFORMING AMENDMENT.—Section 168(e)(3)(E)(vii) of the Internal Revenue Code of 1986 is amended by inserting ''and not described in subparagraph (B)(vii) of this paragraph'' after ''section 1245(a)(3)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

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**SA 4922.** Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—NUCLEAR POWER**

**SEC. 1801. AUTHORIZATION FOR NUCLEAR POWER 2010 PROGRAM.**

Section 952(c) of the Energy Policy Act of 2005 (42 U.S.C. 16014) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program to position the nation to start construction of new nuclear power plants by 2010 or as close to 2010 as achievable.

''(2) SCOPE OF PROGRAM.—The Nuclear Power 2010 Program shall be cost-shared with the private sector and shall support the following objectives:

''(A) Demonstrating the licensing process for new nuclear power plants, including the

Nuclear Regulatory Commission process for obtaining early site permits (ESPs), combined construction/operating licenses (COLs), and design certifications.

''(B) Conducting first-of-a-kind design and engineering work on at least two advanced nuclear reactor designs sufficient to bring those designs to a state of design completion sufficient to allow development of firm cost estimates.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the Nuclear Power 2010 Program—

''(A) $159,600,000 for fiscal year 2009

''(B) $135,600,000 for fiscal year 2010

''(C) $46,900,000 for fiscal year 2011

''(D) $2,200,000 for fiscal year 2012.''.

**SEC. 1802. DOMESTIC MANUFACTURING BASE FOR NUCLEAR COMPONENTS AND EQUIPMENT.**

(a) ESTABLISHMENT OF INTERAGENCY WORKING GROUP.—

(1) PURPOSES.—The purposes of this section are—

(A) to increase the competitiveness of the United States nuclear energy products and services industries;

(B) to identify the stimulus or incentives necessary to cause U.S. manufacturers of nuclear energy products to expand manufacturing capacity;

(C) to facilitate the export of United States nuclear energy products and services;

(D) to reduce the trade deficit of the United States through the export of United States nuclear energy products and services;

(E) to retain and create nuclear energy manufacturing and related service jobs in the United States;

(F) to integrate the objectives in paragraphs (1) through (4) in a manner consistent with the interests of the United States, into the foreign policy of the United States;

(G) to authorize funds for increasing United States capacity to manufacture nuclear energy products and supply nuclear energy services.

(2) ESTABLISHMENT.—

(A) There shall be established an interagency working group that, in consultation with representative industry organizations and manufacturers of nuclear energy products, shall make recommendations to coordinate the actions and programs of the Federal Government in order to promote increasing domestic manufacturing capacity and export of domestic nuclear energy products and services.

(B) The Interagency Working Group shall be composed of —

(i) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working group. The Secretary of Energy shall provide staff for carrying out the functions of the interagency working group established under this section.

(ii) Representatives of —

(I) the Department of Energy;

(II) the Department of Commerce;

(III) the Department of Defense;

(IV) the Department of Treasury;

(V) the Department of State;

(VI) the Environmental Protection Agency;

(VII) the United States Agency for International Development;

(VIII) the Export-Import Bank of the United States;

(IX) the Trade and Development Agency;

(X) the Small Business Administration;

(XI) the Office of the U.S. Trade Representative; and

(XII) other Federal agencies, as determined by the President.

(iii) The heads of appropriate agencies shall detail such personnel and furnish such services to the interagency group, with or without reimbursement, as may be necessary to carry out the group's functions.

(3) DUTIES OF THE INTERAGENCY WORKING GROUP.—

(A) Within 6 months of enactment, the interagency working group established under section (1)(A) shall identify the actions necessary to promote the safe development and application in foreign countries of nuclear energy products and services in order to—

(i) increase electricity generation from nuclear energy sources through development of new generation facilities;

(ii) improve the efficiency, safety and/or reliability of existing nuclear generating facilities through modifications; and

(iii) enhance the safe treatment, handling, storage and disposal of used nuclear fuel.

(B) Within 6 months of enactment, the interagency working group shall identify mechanisms (including, but not limited to, tax stimulus for investment, loans and loan guarantees, and grants) necessary for U.S. companies to increase their capacity to produce or provide nuclear energy products and services, and to increase their exports of nuclear energy products and services. The interagency working group shall identify administrative or legislative initiatives necessary to—

(i) encourage United States companies to increase their manufacturing capacity for nuclear energy products;

(ii) provide technical and financial assistance and support to small and mid-sized businesses to establish quality assurance programs in accordance with domestic and international nuclear quality assurance code requirements;

(iii) encourage, through financial incentives, private sector capital investment to expand manufacturing capacity; and

(iv) provide technical assistance and financial incentives to small and mid-sized businesses to develop the workforce necessary to increase manufacturing capacity and meet domestic and international nuclear quality assurance code requirements.

(C) Within 9 months of enactment, the interagency working group shall provide a report to Congress on its findings under section (2)(A) and (B), including recommendations for new legislative authority where necessary.

(4) TRADE ASSISTANCE.—The interagency working group shall encourage the member agencies of the interagency working group to—

(A) provide technical training and education for international development personnel and local users in their own country;

(B) provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide nuclear energy products and services;

(C) develop nuclear energy projects in foreign countries;

(D) provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States and other appropriate personnel in order to provide information about nuclear energy products and services to foreign governments or other potential project sponsors;

(E) support, through financial incentives, private sector efforts to commercialize and export nuclear energy products and services in accordance with the subsidy codes of the World Trade Organization; and

(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize nuclear energy products and services.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out this title $20,000,000 for fiscal years 2008 and 2009.

(b) CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48B the following new section:

**''SEC. 48C. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.**

''(a) IN GENERAL.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year –

''(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment;

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer; or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer;

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable; and

''(D) which is placed in service on or before December 31, 2015.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

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

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including computers and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(c) CONFORMING AMENDMENTS.—

(1) ADDITIONAL INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 is amended by—

(A) striking ''and'' at the end of paragraph (3);

(B) striking the period at the end of paragraph (4) and inserting '', and''; and

(C) inserting after paragraph (4) the following new paragraph:

''(5) the qualifying nuclear power manufacturing credit.''.

(2) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code is amended by—

(A) striking ''and'' at the end of clause (iii);

(B) striking the period at the end of clause (iv) and inserting '', and''; and

(C) inserting after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualifying nuclear power equipment manufacturing project under section 48C.''.

(3) TABLE OF SECTIONS.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying nuclear power manufacturing credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1803. NUCLEAR ENERGY WORKFORCE.**

Section 1101 of the Energy Policy Act of 2005 (42 U.S.C. 16411) is amended (1) by redesignating subsection (d) as subsection (e); and by inserting after subsection (c) the following:

''(d) WORKFORCE TRAINING.—

''(1) IN GENERAL.—The Secretary of Labor, in cooperation with the Secretary of Energy, shall promulgate regulations to implement a program to provide workforce training to meet the high demand for workers skilled in the nuclear utility and nuclear energy products and services industries.

''(2) CONSULTATION.—In carrying out this subsection, the Secretary of Labor shall consult with representatives of the nuclear utility and nuclear energy products and services industries, and organized labor, concerning skills that are needed in those industries.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor, working in coordination with the Secretaries of Education and Energy $20,000,000 for each of fiscal years 2008 through 2012 for use in implementing a program to provide workforce training to meet the high demand for workers skilled in the nuclear utility and nuclear energy products and services industries.''.

**SEC. 1804. CONSTRUCTION PERMITS AND OPERATING LICENSES.**

Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by striking subsection (b) and inserting the following:

''(b) ISSUANCE OF LICENSES.—

''(1) IN GENERAL.—After a public hearing under section 189a.(1)(A), the Commission shall issue to the applicant a combined construction and operating license, if—

''(A) the application contains sufficient information to support the issuance of a combined license; and

''(B) the Commission determines that there is reasonable assurance that the facility—

''(i) will be constructed; and

''(ii) will operate in conformity with the license, the requirements of this Act, and the rules and regulations of the Commission.

''(2) INCLUSIONS.—The Commission shall identify in the combined license—

''(A) each inspection, test, and analysis (including as applicable to emergency planning) that the licensee shall be required to perform; and

''(B) the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility—

''(i) has been constructed; and

''(ii) will be operated in conformity with the license, he requirements of this Act, and the rules and regulations of the Commission.

''(3) ACTION BY COMMISSION.—

''(A) IN GENERAL.—After issuing a combined license under this subsection, the Commission shall—

''(i) ensure that each required inspection, test, and analysis is performed; and

''(ii) prior to operation of the applicable facility, issue a determination that those requirements have been met.

''(B) NO HEARING REQUIRED.—Except as otherwise provided in section 189a.(1)(B), a determination of the Commission under this paragraph shall not require a hearing.

''(4) NEW LICENSING GOALS.—For each 6 successful issuances by the Commission of licenses under this subsection, not later than 180 days after the date on which the final such license is issued, the Commission shall publish a report, including recommendations, that describes—

''(A) potential impediments or improvements that could enhance the regulatory review process of constructing new civilian nuclear power plants;

''(B) workforce and technology needs of the Commission; and

''(C) requirements that would be required for the Commission to safely license not more than 6 new nuclear plants per year through 2050.''.

**SEC. 1805. HEARINGS AND JUDICIAL REVIEW.**

Section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) is amended by striking ''a.(1)(A)'' and all that follows through the end of subparagraph (A) and inserting the following:

''(a) HEARINGS; REVIEW.—

''(1) HEARINGS.—

''(A) PARTIES.—

''(i) IN GENERAL.—In any proceeding under this Act for the granting, suspending, revoking, or amending of any license or construction permit or application to transfer control, in any proceeding for the issuance or modification of rules and regulations regarding the activities of licensees, and in any proceeding for the payment of compensation, an award, or royalties under section 153, 157, 186c., or 188, the Commission shall—

''(I) grant a hearing on request of any person the interests of which may be affected by the proceeding; and

''(II) admit any such person as a party to the proceeding.

''(ii) NO REQUEST.—

''(I) IN GENERAL.—In the absence of a request by a person described in clause (i), the Commission may issue a construction permit, an operating license, or an amendment to a construction permit or an amendment to an operating license without a hearing by publishing in the Federal Register a notice of the intended issuance not later than 30 days before the date of issuance.

''(II) EXCEPTION.—The notice requirement under subclause (I) shall not apply with respect to any application for an amendment to a construction permit or an amendment to an operating license on a determination by the Commission that the amendment involves no significant hazard consideration.''.

**SEC. 1806. SENSE OF SENATE.**

It is the sense of the Senate that the Nuclear Regulatory Commission should be given all necessary funding and assistance required by the Commission to meet the increasing demand of license applications before the Commission.

**SEC. 1807. INVESTMENT TAX CREDIT FOR INVESTMENTS IN NUCLEAR POWER FACILITIES.**

(a) NEW CREDIT FOR NUCLEAR POWER FACILITIES.—Section 46 of the Internal Revenue Code of 1986, as amended by this title, is amended by:

(1) striking ''and'' at the end of paragraph (5);

(2) striking the period at the end of paragraph (5) and inserting '', and''; and

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

''(6) the nuclear power facility construction credit.''.

(b) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this title, is amended by inserting after section 48C the following new section:

**''SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.**

''(a) IN GENERAL.—For purposes of section 46, the nuclear power facility construction credit for any taxable year is 10 percent of the qualified nuclear power facility expenditures with respect to a qualified nuclear power facility.

''(b) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(1) IN GENERAL.—Qualified nuclear power facility expenditures shall be taken into account for the taxable year in which the qualified nuclear power facility is placed in service.

''(2) COORDINATION WITH SUBSECTION (C).—The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified nuclear power facility shall be reduced (but not below zero) by any amount of qualified nuclear power facility expenditures taken into account under subsection (c) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

''(c) PROGRESS EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to take into account qualified nuclear power facility expenditures—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of a qualified nuclear power facility which is a self-constructed facility, in the taxable year for which such expenditures are properly chargeable to capital account with respect to such facility; and

''(B) ACQUIRED FACILITY.—In the case of a qualified nuclear facility which is not self-constructed property, in the taxable year in which such expenditures are paid.

''(2) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

''(A) COMPONENT PARTS, ETC.—Property which is not self-constructed property and which is to be a component part of, or is otherwise to be included in, any facility to which this subsection applies shall be taken into account in accordance with paragraph (1)(B);

''(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer on a nonrecourse basis from the person constructing the facility for the taxpayer shall not be treated as an amount expended for such facility; and

''(C) LIMITATION FOR FACILITIES OR COMPONENTS WHICH ARE NOT SELF-CONSTRUCTED.—

''(i) IN GENERAL.—In the case of a facility or a component of a facility which is not self-constructed, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the facility or component of a facility which is properly attributable to the portion of the facility or component which is completed during such taxable year.

''(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of a facility or component of a facility which is not self constructed, if for the taxable year—

''(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year; or

''(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

''(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

''(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No qualified nuclear facility expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

''(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any qualified nuclear facility, no qualified nuclear facility expenditures shall be taken into account under this subsection for the earlier of—

''(i) the taxable year in which the facility is placed in service, or

''(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such facility, or for any taxable year thereafter.

''(3) SELF-CONSTRUCTED.—For purposes of this subsection—

''(A) The term 'self-constructed facility' means any facility if it is reasonable to believe that more than half of the qualified nuclear facility expenditures for such facility will be made directly by the taxpayer.

''(B) A component of a facility shall be treated as not self-constructed if the cost of the component is at least 5 percent of the expected cost of the facility and the component is acquired by the taxpayer.

''(4) ELECTION.—An election shall be made under this section for a qualified nuclear power facility by claiming the nuclear power facility construction credit for expenditures described in paragraph (1) on a tax return filed by the due date for such return (taking into account extensions). Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

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

''(1) QUALIFIED NUCLEAR POWER FACILITY.—The term 'qualified nuclear power facility' means an advanced nuclear power facility, as defined in section 45J, the construction of which was approved by the Nuclear Regulatory Commission on or before December 31, 2013.

''(2) QUALIFIED NUCLEAR POWER FACILITY EXPENDITURES.—

''(A) IN GENERAL.—The term 'qualified nuclear power facility expenditures' means any amount properly chargeable to capital account—

''(i) with respect to a qualified nuclear power facility;

''(ii) for which depreciation is allowable under section 168; and

''(iii) which are incurred before the qualified nuclear power facility is placed in service or in connection with the placement of such facility in service.

''(B) PRE-EFFECTIVE DATE EXPENDITURES.—Qualified nuclear power facility expenditures do not include any expenditures incurred by the taxpayer before January 1, 2007, unless such expenditures constitute less than 20 percent of the total qualified nuclear power facility expenditures (determined without regard to this subparagraph) for the qualified nuclear power facility.

''(3) DELAYS AND SUSPENSION OF CONSTRUCTION.—

''(A) IN GENERAL.—For purposes of applying this section and section 50, a nuclear power facility that is under construction shall cease to be treated as a facility that will be a qualified nuclear power facility as of the earlier of—

''(i) the date on which the taxpayer decides to terminate construction of the facility, or

''(ii) the last day of any 24 month period in which the taxpayer has failed to incur qualified nuclear power facility expenditures totaling at least 20 percent of the expected total cost of the nuclear power facility.

''(B) AUTHORITY TO WAIVE.—The Secretary may waive the application of clause (ii) of subparagraph (A) if the Secretary determines that the taxpayer intended to continue the construction of the qualified nuclear power facility and the expenditures were not incurred for reasons outside the control of the taxpayer.

''(C) RESUMPTION OF CONSTRUCTION.—If a nuclear power facility that is under construction ceases to be a qualified nuclear power facility by reason of paragraph (2) and work is subsequently resumed on the construction of such facility—

''(i) the date work is subsequently resumed shall be treated as the date that construction began for purposes of paragraph (1); and

''(ii) if the facility is a qualified nuclear power facility, the qualified nuclear power facility expenditures shall be determined without regard to any delay or temporary termination of construction of the facility.''.

(c) PROVISIONS RELATING TO CREDIT RECAPTURE.—

(1) PROGRESS EXPENDITURE RECAPTURE RULES.—

(A) BASIC RULES.—Subparagraph (A) of section 50(a)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) IN GENERAL.—If during any taxable year any building to which section 47(d) applied or any facility to which section 48C(c) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building or a qualified nuclear power facility, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building or facility.''.

(B) AMENDMENT TO EXCESS CREDIT RECAPTURE RULE.—Subparagraph (B) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or paragraph (2) of section 48D(b)'' after ''paragraph (2) of section 47(b)'';

(ii) inserting ''or section 48D(b)(1)'' after ''section 47(b)(1)''; and

(iii) inserting ''or facility'' after ''building''.

(C) AMENDMENT OF SALE AND LEASEBACK RULE.—Subparagraph (C) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or section 48D(c)'' after ''section 47(d)''; and

(ii) inserting ''or qualified nuclear power facility expenditures'' after ''qualified rehabilitation expenditures''.

(D) OTHER AMENDMENT.—Subparagraph (D) of section 50(a)(2) of such Code is amended by inserting ''or section 48D(c)'' after ''section 47(d)''.

(d) NO BASIS ADJUSTMENT.—Section 50(c) of the Internal Revenue Code of 1986 is amended by inserting at the end thereof the following new paragraph:

''(6) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Paragraphs (1) and (2) shall not apply to the nuclear power facility construction credit.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this title, is amended by inserting after the item relating to section 48C the following new item:

''Sec. 48D. Nuclear power facility construction credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1808. CONTRACTING AND NUCLEAR WASTE FUND.**

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) is amended—

(1) in subsection (a)(1), by adding at the end the following: ''For any civilian nuclear power reactor a license application for which is filed with the Commission, pursuant to its authority under section 103 or 104 of the Atomic Energy Act of 1954, after the date of enactment of this Act, contracts entered into under this section shall—

''(A) except as provided in subsections 302(a)(1)(B), (C), (D), and (E), below, be generally consistent with the terms and conditions of the 'Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste,' as codified at part 961 of title 10, Code of Federal Regulation, and in effect on January 1, 2007;

''(B) provide for the taking of title to, and for the Secretary to dispose of, the high-level waste or spent nuclear fuel involved beginning no later than 15 years following the start of commercial operation;

''(C) contain no provisions providing for adjustment of the 1.0 mil per kilowatt-hour fee established by paragraph (2);

''(D) be entered into no later than 60 days following the docketing of the license application by the Commission, or the date of enactment of this Act, whichever is later;

''(E) provide that, on a schedule consistent with the Secretary's acceptance of spent nuclear fuel from each civilian nuclear power reactor or site, and completed not later than the Secretary's completing the acceptance of all spent nuclear fuel from that commercial nuclear power reactor or site, the Secretary shall accept from each such reactor or site, all low-level radioactive waste defined in section 3(b)(1)(D) of the Low-level Radioactive Waste Policy Act (42 U.S.C. 2021c(b)(1)(D)), as amended.''; and

(2) in subsection (a)(4), by striking all after ''herein.'' in the second sentence; and

(3) in subsection (a)(6), by adding at the end the following: ''Further, the Secretary shall offer to settle any actions pending on the date of enactment of this Act for damages resulting from failure to commence accepting spent nuclear fuel or high-level radioactive waste on or before January 31, 1998. Each offer to settle shall provide for the payment of $150 to the other party to a contract for disposal of spent nuclear fuel and high-level radioactive waste for each kilogram of spent nuclear fuel which such party was or shall be entitled to deliver to the Department in a particular year, based on the following aggregate acceptance rates: 400 MTU for 1998; 600 MTU for 1999; 1,200 MTU for 2000; 2,000 MTU for 2001; and 3,000 MTU for 2002 and thereafter; provided that the Secretary shall adjust the payment amount per kilogram of spent nuclear fuel under this subsection(a)(6) annually according to the most

recent Producer Price Index published by the Department of Labor. Such aggregate acceptance rates shall be allocated among parties to contracts with the United States based upon the age of spent nuclear fuel, as measured by the date of the discharge of such spent nuclear fuel from the civilian nuclear power reactor. Such offer to settle also shall include an annual payment of $150 per kilogram uranium to any such party where a civilian nuclear power reactor has been decommissioned, except for those portions of the facility that cannot be decommissioned until removal of spent nuclear fuel and high-level radioactive waste. The Secretary also shall offer like compensation to parties to contracts entered into pursuant to section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) who brought actions for damages prior to the date of enactment of this Act, but which were no longer pending as of said date, provided that such compensation shall be reduced by the amount of any settlement or judgment received by such party.''; and

(4) in subsection (d), by adding at the end the following: ''No amount may be expended by the Secretary from the Waste Fund to carry out research and development activities on advanced nuclear fuel cycle technologies.''.

**SEC. 1809. CONFIDENCE IN AVAILABILITY OF WASTE DISPOSAL.**

(a) CONGRESSIONAL DETERMINATION.—Congress finds that—

(1) there is reasonable assurance that high-level radioactive waste and spent nuclear fuel generated in reactors licensed by the Nuclear Regulatory Commission in the past, currently, or in the future will be managed in a safe manner without significant environmental impact until capacity for ultimate disposal is available; and

(2) the Federal Government is responsible and has an established a policy for the ultimate safe and environmentally sound disposal of such high-level radioactive waste and spent nuclear fuel.

(b) REGULATORY CONSIDERATION.—Notwithstanding any other provision of law, for the period following the licensed operation of a civilian nuclear power reactor or any facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste, no consideration of the public health and safety, common defense and security, or environmental impacts of the storage of high-level radioactive waste and spent nuclear fuel generated in reactors licensed by the Nuclear Regulatory Commission in the past, currently, or in the future, is required by the Department of Energy or the Nuclear Regulatory Commission in connection with the development, construction, and operation of, or any permit, license, license amendment, or siting approval for, a civilian nuclear power reactor or any facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste. Nothing in this section shall affect the Department of Energy's and Nuclear Regulatory Commission's obligation to consider the public health and safety, common defense and security, and environmental impacts of storage during the period of licensed operation of a civilian nuclear power reactor or facility for the treatment or storage of spent nuclear fuel or high-level radioactive waste.

**SEC. 1810. TEMPORARY SPENT NUCLEAR FUEL STORAGE AGREEMENTS.**

(a) AUTHORIZATION AND LOCATION.—The Secretary of Energy (Secretary) is authorized to initiate spent nuclear fuel storage agreements as provided herein.

(1) No later than 180 days from the date of enactment of this Act, representatives of a community may submit written notice to the Secretary that the community is willing to host a temporary spent nuclear fuel storage facility within its jurisdiction.

(2) Within 90 days of the receipt of the notification under subsection (a)(1), the Secretary shall determine whether the identified site is suitable for a temporary storage facility. In determining the site's suitability, the Secretary will evaluate technical feasibility and consider favorably local support for collocating a temporary spent nuclear fuel storage facility with facilities intended to develop and implement advanced nuclear fuel cycle technologies.

(b) CONTENT OF AGREEMENTS.—If the Secretary determines one or more sites to be suitable in accordance with subsection (a)(2), negotiation of a temporary spent nuclear fuel storage facility agreement shall proceed.

(1) Any temporary spent nuclear fuel storage agreement shall contain such terms and conditions, including financial, institutional and such other arrangements as the Secretary and community determine to be reasonable and appropriate.

(2) Any temporary spent nuclear fuel storage agreement may be amended only with the mutual consent of the parties to the agreement.

**SEC. 1811. IMPLEMENTATION OF TEMPORARY SPENT NUCLEAR FUEL STORAGE AGREEMENTS.**

(a) IN GENERAL.—Any temporary spent nuclear fuel storage agreement or agreements entered into under this title shall enter into force with respect to the United States if (and only if)—

(1) the Secretary, at least 60 days before the day on which he or she enters into the temporary spent nuclear fuel storage agreement or agreements notifies the House of Representatives and the Senate of his intention to enter into the agreement or agreements, and promptly thereafter publishes notice of such intention in the Federal Register; and

(2) the Governor of the state or states in which the facility is proposed to be located submits written notice to the Secretary that the Governor supports the temporary spent nuclear fuel storage agreement.

## TITLE XIX—CLEAN ENERGY INVESTMENT BANK

**SEC. 1901. SHORT TITLE.**

This title may be cited as the ''Clean Energy Investment Bank Act of 2008''.

**SEC. 1902. DEFINITIONS.**

In this title:

(1) BANK.—The term ''Bank'' means the Clean Energy Investment Bank of the United States established by section 1903(a).

(2) BOARD.—The term ''Board'' means the Board of Directors of the Bank established under section 1904(b).

(3) CLEAN ENERGY INVESTMENT BANK FUND.—The term ''Clean Energy Investment Bank Fund'' means the revolving fund account established under section 1906(b).

(4) COMMERCIAL TECHNOLOGY.—The term ''commercial technology'' means a technology in general use in the commercial marketplace.

(5) ELIGIBLE PROJECT.—The term ''eligible project'' means a project in a State related to the production or use of energy that uses a commercial technology that the Bank determines avoids, reduces, or sequesters 1 or more air pollutants or anthropogenic emissions of greenhouse gases more effectively than other technology options available to the project developer.

(6) INVESTMENT.—The term ''investment'' includes any contribution or commitment to an eligible project in the form of—

(A) loans or loan guarantees;

(B) the purchase of equity shares in the project;

(C) participation in royalties, earnings, or profits; or

(D) furnishing commodities, services or other rights under a lease or other contract.

(7) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

**SEC. 1903. ESTABLISHMENT OF BANK.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Executive branch a bank to be known as the ''Clean Energy Investment Bank of the United States,'' which shall be an agency of the United States.

(2) GOVERNMENT CORPORATION.—The Bank shall be—

(A) a Government corporation (as defined in section 103 of title 5, United States Code); and

(B) subject to chapter 91 of title 31, United States Code, except as expressly provided in this title.

(b) AUTHORITY.—

(1) IN GENERAL.—The Bank shall assist in the financing, and facilitate the commercial use, of clean energy and energy efficient technologies within the United States.

(2) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Bank may make investments—

(A) in eligible projects on such terms and conditions as the Bank considers appropriate in accordance with this title; or

(B) under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.), and any of the regulations promulgated under that Act, as the Bank considers appropriate.

(3) REPAYMENT.—No loan or loan guarantee shall be made under this subsection unless the Bank determines that there is a reasonable prospect of repayment of the principal and interest by the borrower.

(4) PROJECT DIVERSITY.—The Bank shall ensure that a reasonable diversity of projects, technologies, and energy sectors receive assistance under this subsection.

(c) POWERS.—In carrying out this title, the Bank may—

(1) conduct a general banking business (other than currency circulation), including—

(A) borrowing and lending money;

(B) issuing letters of credit;

(C) accepting bills and drafts drawn upon the Bank;

(D) purchasing, discounting, rediscounting, selling, and negotiating, with or without endorsement or guaranty, and guaranteeing, notes, drafts, checks, bills of exchange, acceptances (including bankers' acceptances), cable transfers, and other evidences of indebtedness;

(E) issuing guarantees, insurance, coinsurance, and reinsurance;

(F) purchasing and selling securities; and

(G) receiving deposits;

(2) make investments in eligible projects on a self-sustaining basis, taking into account the financing operations of the Bank and the economic and financial soundness of projects;

(3) use private credit, investment institutions, and the guarantee authority of the Bank as the principal means of mobilizing capital investment funds;

(4) broaden private participation and revolve the funds of the Bank through selling the direct investments of the Bank to private investors whenever the Bank can appropriately do so on satisfactory terms;

(5) conduct the insurance operations of the Bank with due regard to principles of risk management, including efforts to share the insurance risks of the Bank;

(6) foster private initiative and competition and discourage monopolistic practices; and

(7) advise and assist interested agencies of the United States and other organizations, public and private and national and international, with respect to projects and programs relating to the development of private enterprise in the market sector in accordance with this title.

**SEC. 1904. ORGANIZATION AND MANAGEMENT.**

(a) STRUCTURE OF BANK.—The Bank shall have—

(1) a Board of Directors;

(2) a President;

(3) an Executive Vice President; and

(4) such other officers and staff as the Board may determine.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT.—There is established a Board of Directors of the Bank to exercise all powers of the Bank.

(2) COMPOSITION.—

(A) IN GENERAL.—The Board shall be composed of 7 members, of whom—

(i) 5 members shall be independent directors appointed by the President of the United States, by and with the advice and consent of the Senate (referred to in this subsection as ''independent directors''; and

(ii) 2 members shall be the President of the Bank and the Executive Vice President of the Bank, appointed by the independent directors.

(B) FEDERAL EMPLOYMENT.—An independent director shall not be an officer or employee of the Federal Government at the time of appointment.

(C) POLITICAL PARTY.—Not more than 3 of the independent directors shall be members of the same political party.

(3) TERM; VACANCIES.—

(A) TERM.—

(i) IN GENERAL.—Subject to clause (ii), the independent directors shall be appointed for a term of 5 years and may be reappointed.

(ii) STAGGERED TERMS.—The terms of not more than 2 independent directors shall expire in any year.

(B) VACANCIES.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(4) MEETINGS.—

(A) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold the initial meeting of the Board.

(B) MEETINGS.—The Board shall meet at the call of the Chairman of the Board.

(C) QUORUM.—Four members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(5) CHAIRMAN AND VICE CHAIRMAN.—

(A) IN GENERAL.—The Board shall select a Chairman and Vice Chairman from among the members of the Board.

(B) ELIGIBILITY.—The Chairman of the Board shall not be an Executive Director of the Board.

(6) COMPENSATION OF MEMBERS.—An independent director shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board.

(7) TRAVEL EXPENSES.—An independent director shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Board.

(c) PRESIDENT OF THE BANK.—

(1) APPOINTMENT.—The President of the Bank shall be appointed by the Board.

(2) DUTIES.—The President of the Bank shall—

(A) be the Chief Executive Officer of the Bank;

(B) be responsible for the operations and management of the Bank, subject to bylaws and policies established by the Board; and

(C) serve as an Executive Director on the Board.

(d) EXECUTIVE VICE PRESIDENT.—

(1) APPOINTMENT.—The Executive Vice President of the Bank shall be appointed by the Board.

(2) DUTIES.—The Executive Vice President of the Bank shall—

(A) serve as the President of the Bank during the absence or disability, or in the event of a vacancy in the office, of the President of the Bank;

(B) at other times, perform such functions as the President of the Bank may from time to time prescribe; and

(C) serve as an Executive Director on the Board.

(e) STAFF.—

(1) IN GENERAL.—The Board may—

(A) appoint and terminate such officers, attorneys, employees, and agents as are necessary to carry out this title; and

(B) vest the personnel with such powers and duties as the Board may determine.

(2) CIVIL SERVICE LAWS.—Persons employed by the Bank may be appointed, compensated, or removed without regard to civil service laws (including regulations).

(3) REAPPOINTMENT.—Under such regulations as the President of the United States may promulgate, an officer or employee of the Federal Government who is appointed to a position under this subsection may be entitled, on removal from the position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary.

(4) ADDITIONAL POSITIONS.—Positions authorized under this subsection shall be in addition to other positions otherwise authorized by law, including positions authorized by section 5108 of title 5, United States Code.

**SEC. 1905. FINANCING, GUARANTIES, INSURANCE, CREDIT SUPPORT, AND OTHER PROGRAMS.**

(a) INTERGOVERNMENTAL AGREEMENTS.—Subject to the other provisions of this section, the Bank may enter into arrangements with State and local governments (including agencies, instrumentalities, or political subdivisions of State and local governments) for sharing liabilities assumed by providing financial assistance for eligible projects under this title.

(b) INSURANCE.—

(1) IN GENERAL.—The Bank may issue insurance, on such terms and conditions as the Bank may determine, to ensure protection in whole or in part against any or all of the risks with respect to eligible projects that the Bank has approved.

(2) DUPLICATION OF ASSISTANCE.—The Bank shall not offer any insurance products under this subsection that duplicate or augment any other similar Federal assistance.

(c) GUARANTEES.—

(1) IN GENERAL.—The Bank may issue guarantees of loans and other investments made by investors assuring against loss in eligible projects on such terms and conditions as the Bank may determine.

(2) BUDGETARY TREATMENT.—Any guarantee issued under this subsection shall, for budgetary purposes, be considered a loan guarantee (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(d) LOANS AND CREDIT ASSISTANCE.—

(1) IN GENERAL.—The Bank may make loans, provide letters of credit, issue other credit enhancements, or provide other financing for eligible projects on such terms and conditions as the Bank may determine.

(2) BUDGETARY TREATMENT.—Any financial instrument issued under this subsection shall, for budgetary purposes, be considered a direct loan (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(e) ELIGIBLE PROJECT DEVELOPMENT INVESTMENT ENCOURAGEMENT.—The Bank may provide financial assistance under this section for development activities for eligible projects, under such terms and conditions as the Bank may determine, if the Board determines that the assistance is necessary to encourage private investment or accelerate project development.

(f) OTHER INSURANCE FUNCTIONS.—The Bank may—

(1) using agreements and contracts that are consistent with this title—

(A) make and carry out contracts of insurance or agreements to associate or share risks with insurance companies, financial institutions, any other person or group of persons; and

(B) employ entities described in subparagraph (A), if appropriate, as the agent of the Bank in—

(i) the issuance and servicing of insurance;

(ii) the adjustment of claims;

(iii) the exercise of subrogation rights;

(iv) the ceding and acceptance of reinsurance; and

(v) any other matter incident to an insurance business; and

(2) enter into pooling or other risk-sharing agreements with other governmental insurance or financing agencies or groups of those agencies.

(g) EQUITY FINANCE PROGRAM.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Bank may establish an equity finance program under which the Bank may, in accordance with this subsection, purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, on such terms and conditions as the Bank may determine, for the purpose of providing capital for any project that is consistent with this title.

(2) TOTAL AMOUNT OF EQUITY INVESTMENTS.—

(A) TOTAL AMOUNT OF EQUITY INVESTMENT UNDER EQUITY FINANCE PROGRAM.—

(i) IN GENERAL.—Except as provided in clause (ii), the total amount of the equity investment of the Bank with respect to any project under this subsection shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to the project at the time at which the equity investment of the Bank is made.

(ii) DEFAULTS.—Clause (i) shall not apply to a security acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the investment of the Bank.

(B) TOTAL AMOUNT OF EQUITY INVESTMENT UNDER MULTIPLE PROGRAMS.—

(i) IN GENERAL.—The equity investment of the Bank under this subsection with respect to any project, when added to any other investments made or guaranteed by the Bank under subsection (c) or (d) with respect to the project, shall not cause the aggregate amount of all the investments to exceed, at the time any such investment is made or guaranteed by the Bank, 75 percent of the total investment committed to the project, as determined by the Bank.

(ii) CONCLUSIVE DETERMINATION.—The determination of the Bank under this subparagraph shall be conclusive for purposes of the authority of the Bank to make or guarantee any investment described in clause (i).

(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Bank shall consider the extent to which the equity investment of the Bank will assist in obtaining the financing required for the project.

(4) IMPLEMENTATION.—

(A) IN GENERAL.—The Bank may create such legal vehicles as are necessary for implementation of this subsection.

(B) NON-FEDERAL BORROWERS.—A borrower participating in a legal vehicle created under this paragraph shall be considered a non-Federal borrower for purposes of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(C) SECURITIES.—Income and proceeds of investments made under this subsection may be used to purchase equity or quasi-equity securities in accordance with this section.

(h) RELATIONSHIP TO FEDERAL CREDIT REFORM ACT OF 1990.—

(1) IN GENERAL.—Any liability assumed by the Bank under subsections (c) and (d) shall be discharged pursuant to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(2) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

(A) IN GENERAL.—No loan guaranteed under subsection (c) or direct loan under subsection (d) shall be made unless—

(i) an appropriation for the cost has been made; or

(ii) the Bank has received from the borrower a payment in full for the cost of the obligation.

(B) BUDGETARY TREATMENT.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan or loan guarantee made in accordance with subparagraph (A)(ii).

(3) APPORTIONMENT.—Receipts, proceeds, and recoveries realized by the Bank and the obligations and expenditures made by the Bank pursuant to this subsection shall be exempt from apportionment under subchapter II of chapter 15 of title 31, United States Code.

**SEC. 1906. ISSUING AUTHORITY; DIRECT INVESTMENT AUTHORITY AND RESERVES.**

(a) MAXIMUM CONTINGENT LIABILITY.—The maximum contingent liability outstanding at any time pursuant to actions taken by the Bank under section 1905 shall not exceed a total amount of $100,000,000,000.

(b) CLEAN ENERGY INVESTMENT BANK FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Clean Energy Investment Bank Fund'' (referred to in this section as the ''Fund'').

(2) USE.—The Clean Energy Investment Bank Fund shall be available for discharge of liabilities under section 1905 (other than subsections (c) and (d) of section 1905) until the earlier of—

(A) the date on which all liabilities of the Bank have been discharged or expire; or

(B) the date on which all amounts in the Fund have been expended in accordance with this section.

(3) APPORTIONMENT.—Receipts, proceeds, and recoveries realized by the Bank and the obligations and expenditures made by the Bank pursuant to this subsection shall be exempt from apportionment under subchapter II of chapter 15 of title 31, United States Code.

(c) PAYMENTS OF LIABILITIES.—Any payment made to discharge liabilities arising from agreements under section 1905 (other than subsections (c) and (d) of section 1905) shall be paid out of the Clean Energy Investment Bank Fund.

(d) SUPPLEMENTAL BORROWING AUTHORITY.—

(1) IN GENERAL.—In order to maintain sufficient liquidity in the revolving loan fund, the Bank may issue from time to time for purchase by the Secretary of the Treasury notes, debentures, bonds, or other obligations.

(2) MAXIMUM TOTAL AMOUNT.—The total amount of obligations issued under paragraph (1) that is outstanding at any time shall not exceed $2,000,000,000.

(3) REPAYMENT.—Any obligation issued under paragraph (1) shall be repaid to the Treasury not later than 1 year after the date of issue of the obligation.

(4) INTEREST RATE.—Any obligation issued under paragraph (1) shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection.

(5) PURCHASE OF OBLIGATIONS.—

(A) IN GENERAL.—The Secretary of the Treasury—

(i) shall purchase any obligation of the Bank issued under this subsection; and

(ii) for the purchase, may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code.

(B) PURPOSES.—The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any purchase under this paragraph.

**SEC. 1907. ADMINISTRATION.**

(a) PROTECTION OF INTEREST OF BANK.—The Bank shall ensure that suitable arrangements exist for protecting the interest of the Bank in connection with any agreement issued under this title.

(b) FULL FAITH AND CREDIT.—

(1) OBLIGATION.—A loan guarantee issued by the Bank under section 1905(c) shall constitute an obligation, in accordance with the terms of the guarantee, of the United States.

(2) PAYMENT.—The full faith and credit of the United States is pledged for the full payment and performance of the obligation.

(c) FEES.—

(1) IN GENERAL.—The Bank shall establish and collect fees for services under this title in amounts to be determined by the Bank.

(2) AVAILABILITY OF FEES.—Except as provided in paragraph (3), fees collected by the Bank under paragraph (1) (including fees collected for administrative expenses in carrying out subsections (c) and (d) of section 1905) may be retained by the Bank and may remain available to the Bank, without further appropriation or fiscal year limitation, for payment of administrative expenses incurred in carrying out this title.

(3) FEE TRANSFER AUTHORITY.—Fees collected by the Bank for the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of a loan or loan guarantee made under subsection (c) or (d) of section 1905 shall be transferred by the Bank to the respective credit program accounts.

**SEC. 1908. GENERAL PROVISIONS AND POWERS.**

(a) PRINCIPAL OFFICE.—The Bank shall—

(1) maintain its principal office in the District of Columbia; and

(2) be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(b) TRANSFER OF FUNCTIONS AND AUTHORITY.—

(1) IN GENERAL.—On appointment of a majority of the Board by the President, all of the functions and authority of the Secretary of Energy under predecessor programs and authorities similar to those provided under subsections (c) and (d) of section 1905, including those under title XVII of the Energy Policy Act of 2005 (42 U. S.C. 16511 et seq.), shall be transferred to the Board

(2) CONTINUATION PRIOR TO TRANSFER.—Until the transfer, the Secretary of Energy shall continue to administer such programs and activities, including programs and authorities under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.).

(3) EFFECT ON EXISTING RIGHTS AND OBLIGATIONS.—The transfer of functions and authority under this subsection shall not affect the rights and obligations of any party that arise under a predecessor program or authority prior to the transfer under this subsection.

(c) AUDITS.—

(1) IN GENERAL.—Except as otherwise provided in this title, the Bank shall be subject to the applicable provisions of chapter 91 of title 31, United States Code.

(2) PERIODIC AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(A) IN GENERAL.—Except as provided in paragraph (3), an independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Bank at least once every 3 years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General of the United States.

(B) REPORT TO BOARD.—The independent certified public accountant shall report the results of the audit to the Board.

(C) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The financial statements of the Bank shall be presented in accordance with generally accepted accounting principles.

(D) REPORTS.—

(i) IN GENERAL.—The financial statements and the report of the accountant shall be included in a report that—

(I) contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code; and

(II) the Bank shall submit to Congress not later than 210 days after the end of the last fiscal year covered by the audit.

(ii) REVIEW.—The Comptroller General of the United States may review the audit conducted by the accountant and the report to Congress in such manner and at such times as the Comptroller General considers necessary.

(3) ALTERNATIVE AUDITS BY COMPTROLLER GENERAL OF THE UNITED STATES.—

(A) IN GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General of the United States shall, if the Comptroller General considers it necessary, audit the financial statements of the Bank in the manner provided under paragraph (2).

(B) REIMBURSEMENT.—The Bank shall reimburse the Comptroller General of the United States for the full cost of any audit conducted under this paragraph.

(4) AVAILABILITY OF RECORDS.—All books, accounts, financial records, reports, files, work papers, and property belonging to or in use by the Bank and the accountant who conducts the audit under paragraph (2), that are necessary for purposes of this subsection, shall be made available to the Comptroller General of the United States.

**SEC. 1909. REPORTS TO CONGRESS.**

As soon as practicable after the end of each fiscal year, the Bank shall submit to Congress a complete and detailed report describing the operations of the Bank during the fiscal year.

**SEC. 1910. MODIFICATION TO LOAN GUARANTEE PROGRAM.**

(a) DEFINITION OF COMMERCIAL TECHNOLOGY.—Section 1701(1) of the Energy Policy Act of 2005 (42 U.S.C. 16511(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) EXCLUSION.—The term 'commercial technology' does not include a technology if the sole use of the technology is in connection with—

''(i) a demonstration plant; or

''(ii) a project for which the Secretary approved a loan guarantee.''.

(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (b) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) an appropriation for the cost has been made; or

''(B) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

''(2) LIMITATION.—The source of payments received from a borrower under paragraph (1)(B) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government.

''(3) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan or loan guarantee made in accordance with paragraph (1)(B).''.

(c) AMOUNT.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsection (c) and inserting the following:

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee up to 100 percent of the principal and interest due on 1 or more loans for a facility that are the subject of the guarantee.

''(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total cost of the facility, as estimated at the time at which the guarantee is issued.''.

(d) SUBROGATION.—Section 1702(g)(2) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)(2)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(e) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into a special fund in the Treasury to be known as the 'Incentives For Innovative Technologies Fund'; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.''.

**SEC. 1911. INTEGRATION OF LOAN GUARANTEE PROGRAMS.**

(a) DEFINITION OF BANK.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following:

''(1) BANK.—The term 'Bank' means the Clean Energy Investment Bank of the United States established by section 1903(a) of the Clean Energy Investment Bank Act of 2008.''.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended by striking ''Secretary'' each place it appears (other than the last place it appears in section 1702(a)) and inserting ''Board''.

(2) CONFORMING AMENDMENTS.—Section 1702(g) of the Energy Policy Act of 2005 (42 U.S.C. 16512(g)) is amended—

(A) in the heading for paragraph (1), by striking ''SECRETARY'' and inserting ''BANK''; and

(B) in the heading for paragraph (3), by striking ''SECRETARY'' and inserting ''BANK''.

(c) APPLICATION.—The amendments made by this section are effective on the date the President transfers to the Bank under section 1909(b)(1) the authority to carry out title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.).

**SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to the Bank, to remain available until expended, such sums as are necessary to—

(1) replenish or increase the Clean Energy Investment Bank Fund; or

(2) discharge obligations of the Bank purchased by the Secretary of the Treasury under this title.

(b) MINIMUM LEVELS IN THE CLEAN ENERGY INVESTMENT BANK FUND.—No appropriations shall be made to augment the Clean Energy Investment Bank Fund unless the balance in the Clean Energy Investment Bank Fund is projected to be less than $50,000,000 during the fiscal year for which an appropriation is made.

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**SA 4923.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, the table after line 11 is amended to read as follows:

| Calendar Year | Percentage for auction for public transportation |
|---|---|
| 2012 | 3.87 |
| 2013 | 3.87 |
| 2014 | 3.87 |
| 2015 | 4.25 |
| 2016 | 4.37 |
| 2017 | 4.37 |
| 2018 | 5.62 |
| 2019 | 5.90 |
| 2020 | 6.00 |
| 2021 | 6.75 |
| 2022 | 7.12 |
| 2023 | 7.62 |
| 2024 | 8.12 |
| 2025 | 8.12 |
| 2026 | 9.12 |
| 2027 | 9.12 |
| 2028 | 9.12 |
| 2029 | 9.12 |
| 2030 | 9.62 |
| 2031 | 10 |
| 2032 | 10 |
| 2033 | 10 |
| 2034 | 10 |
| 2035 | 10 |
| 2036 | 10 |
| 2037 | 10 |
| 2038 | 10 |
| 2039 | 10 |
| 2040 | 10 |
| 2041 | 10 |
| 2042 | 10 |
| 2043 | 10 |
| 2044 | 10 |
| 2045 | 10 |
| 2046 | 10 |
| 2047 | 10 |
| 2048 | 10 |
| 2049 | 10 |
| 2050 | 10 |

On page 458, the table after line 5 is amended to read as follows:

| Calendar Year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 2.88 |
| 2013 | 2.88 |
| 2014 | 2.88 |
| 2015 | 3.25 |
| 2016 | 3.38 |
| 2017 | 3.38 |
| 2018 | 3.63 |
| 2019 | 3.50 |
| 2020 | 4.00 |
| 2021 | 4.75 |
| 2022 | 4.38 |
| 2023 | 4.88 |
| 2024 | 5.38 |
| 2025 | 5.38 |
| 2026 | 6.38 |
| 2027 | 6.38 |
| 2028 | 6.38 |
| 2029 | 6.88 |
| 2030 | 6.88 |
| 2031 | 12.50 |
| 2032 | 9.50 |
| 2033 | 9.50 |
| 2034 | 9.50 |
| 2035 | 9.50 |
| 2036 | 9.50 |
| 2037 | 9.50 |
| 2038 | 9.50 |
| 2039 | 9.50 |
| 2040 | 9.50 |
| 2041 | 9.50 |
| 2042 | 9.50 |
| 2043 | 9.50 |
| 2044 | 9.50 |
| 2045 | 9.50 |
| 2046 | 9.50 |
| 2047 | 9.50 |
| 2048 | 9.50 |
| 2049 | 9.50 |
| 2050 | 9.50 |

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**SA 4924.** Mr. MENENDEZ (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 196, strike line 19 and insert the following:

Not later than 330 days before

On page 196, line 21, strike ''2 percent'' and insert ''0.5 percent''.

On page 197, strike lines 3 through 8.

On page 198, between lines 16 and 17, insert the following:

(c) LIMITATION.—No emission allowance shall be distributed to an owner or operator of an entity described in section 561 under

this subtitle if the owner or operator, or the parent company of the owner or operator, has total annual revenue that is equal to or greater than—

(1) for calendar year 2012, $100,000,000,000; and

(2) for each subsequent calendar year, $100,000,000,000, as adjusted to reflect the annual rate of United States dollar inflation for the calendar year (as measured by the Consumer Price Index) since calendar year 2012.

On page 426, strike lines 14 through 16 and insert the following:

section—

(1) for each of calendar years 2012 through 2017, 2.5 percent of the aggregate quantity of emission allowances established for the applicable calendar year pursuant to section 201(a);

(2) for each of calendar years 2018 through 2030, 2 percent of the aggregate quantity of emission allowances established for the applicable calendar year pursuant to section 201(a); and

(3) for each of calendar years 2031 through 2050, 1 percent of the aggregate quantity of emission allowances established for the applicable calendar year pursuant to section 201(a).

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**SA 4925.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 21, strike lines 8 through 17.

On page 21, line 18, strike ''(E)'' and insert ''(B)''.

On page 21, line 24, strike ''(F)'' and insert ''(C)''.

On page 22, line 5, strike ''(G)'' and insert ''(D)''.

On page 22, line 9, strike ''(H)'' and insert ''(E)''.

On page 22, line 14, strike ''(I)'' and insert ''(F)''.

On page 27, strike lines 4 through 16.

On page 31, line 8, strike ''or natural-gas''.

Beginning on page 65, strike line 25 and all that follows through page 66, line 19, and insert the following:

ural gas; and

(4) each HFC that was, during the preceding calendar year, emitted as a byproduct of hydrochlorofluorocarbon manufacture in the United States by that covered entity.

On page 67, lines 4 and 5, strike ''neither paragraph (2) nor paragraph (5) of subsection (a) requires'' and insert ''subsection (a)(2) does not require''.

On page 69, lines 23 and 24, strike '', natural gas, or natural gas liquid''.

On page 70, lines 15 and 16, strike ''(2), (3), or (5)'' and insert ''(2) or (3)''.

Beginning on page 198, strike line 17 and all that follows through page 201, line 17.

Beginning on page 205, strike line 1 and all that follows through page 206, line 15, and insert the following:

(1) FIRST PERIOD.—Not later than 330 days before the beginning of calendar year 2012, the Administrator shall allocate 9.5 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among electricity local distribution companies in the United States.

(2) SECOND PERIOD.—Not later than 330 days before the beginning of each of calendar years 2013 through 2025, the Administrator shall allocate 9.75 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among electricity local distribution companies in the United States.

(3) THIRD PERIOD.—Not later than 330 days before the beginning of each of calendar years 2026 through 2050, the Administrator shall allocate 10 percent of the quantity of emission allowances established pursuant to section 201(a) for that calendar year for distribution among electricity local distribution companies in the United States.

On page 207, line 2, strike ''or natural gas''.

On page 207, line 10, strike ''or natural gas''.

On page 209, line 17, strike ''or natural gas''.

On page 210, line 19, strike ''or natural gas''.

On page 211, line 7, strike ''or natural gas''.

On page 215, lines 5 and 6, strike ''or natural gas costs, as applicable,'' and insert ''costs''.

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**SA 4926.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 192, between lines 9 and 10, insert the following:

**SEC. 543. INTERNATIONAL COMPETITIVENESS ALLOWANCE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE MANUFACTURING FACILITY.—

(A) IN GENERAL.—The term ''eligible manufacturing facility'' means a manufacturing facility located in the United States that principally manufactures iron, steel, pulp, paper, cement, rubber, chemicals, fertilizer, glass, ceramics, sulfur hexafluoride, or aluminum and other nonferrous metals.

(B) EXCLUSION.—The term ''eligible manufacturing facility'' does not include a facility eligible to receive emission allowances under subtitle F or H.

(2) INTERNATIONAL COMPETITIVE ALLOWANCE.—The term ''international competitive allowance'' means an allowance allocated pursuant to the International Competitiveness Allowance Program established under subsection (b).

(3) REFINER OF PETROLEUM-BASED FUEL.—The term ''refiner of petroleum-based fuel'' means an entity that manufactures in the United States petroleum-based liquid or gaseous fuel.

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program, to be known as the ''International Competitiveness Allowance Program'', under which the Administrator may allocate international competitiveness allowances to owners and operators of eligible manufacturing facilities and refiners of petroleum-based fuel in the United States that, in addition to distributions of emission allowances under section 542, continue to be constrained or burdened by the requirements of this Act.

(2) DENOMINATION.—International competitiveness allowances shall be denominated in units of metric tons of carbon dioxide equivalent.

(3) CONSISTENCY WITH OTHER PROGRAMS.—In establishing the International Competitiveness Allowance Program under paragraph (1), the Administrator shall ensure that the program is consistent with the other purposes and requirements of this Act.

(c) QUANTITY FOR ALLOCATION.—

(1) REGULATIONS.—Not later than the earliest date on which the Administrator distributes allowances under any of titles V through XI, the Administrator shall establish, by regulation, a procedure for calculating, for each calendar year, the number of international competitiveness allowances to be allocated to each eligible manufacturing facility and refiner of petroleum-based fuel under the International Competitiveness Allowance Program, in accordance with paragraph (2).

(2) REQUIREMENT.—To the maximum extent practicable, the Administrator shall ensure that the number of international competitiveness allowances allocated to an eligible manufacturing facility or refiner of petroleum-based fuel for a calendar year is sufficient to offset the additional adverse competitive impact the eligible manufacturing facility or refiner of petroleum-based fuel would experience in the absence of the International Competitiveness Allowance Program during that calendar year.

(d) SOURCE.—International competitiveness allowances shall be issued from a special reserve of allowances that is separate from, and established in addition to, the quantity of allowances established under section 201.

(e) TRADING SYSTEM.—The Administrator may establish, by regulation, a system for the sale, exchange, purchase, transfer, and banking of international competitive allowances.

(f) TERMINATION.—The International Competitiveness Allowance Program shall terminate on the later of—

(1) the date on which the Administrator determines that other measures have been implemented to address international competitiveness concerns resulting from this Act; and

(2) January 1, 2014.

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**SA 4927.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Identification of Most Prospective Outer Continental Shelf Oil and Natural Gas Areas Under Moratoria**

**SEC. 1771. DEFINITIONS.**

In this subtitle:

(1) MORATORIUM AREA.—

(A) IN GENERAL.—The term ''moratorium area'' means any area on the Outer Continental Shelf covered by—

(i) sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521);

(ii) section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432); or

(iii) any area withdrawn from disposition by leasing by the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'' (34 Weekly Comp. Pres. Doc. 1111), and dated June 12, 1998, as modified by the President on January 9, 2007.

(B) EXCLUSIONS.—The term ''moratorium area'' does not include an area of the outer Continental Shelf designated by the National Oceanic and Atmospheric Administration as a national marine sanctuary.

(2) PROSPECTIVE AREA.—The term ''prospective area'' means a portion of any moratorium area that may contain recoverable oil or gas.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 1772. IDENTIFICATION OF MOST PROSPECTIVE OUTER CONTINENTAL SHELF OIL AND NATURAL GAS AREAS UNDER MORATORIA.**

(a) INVENTORY.—

(1) IN GENERAL.—The Secretary shall identify the 10 most prospective areas for recoverable oil and gas accumulations, including if appropriate the 5 most prospective areas for oil and the 5 most prospective areas for natural gas in the prospective areas that industry would likely explore if allowed.

(2) INFORMATION.—In identifying the prospective areas, the Secretary shall take into account any existing information on the geological potential for oil and gas or acquire new data as appropriate to assist in narrowing down prospective areas.

(3) TECHNOLOGY.—The Secretary may use any available geological, geophysical, economic, engineering, and other scientific technology to obtain accurate estimates of resource potential.

(b) ACQUISITION OF GEOLOGICAL AND GEOPHYSICAL DATA.—

(1) IN GENERAL.—The Secretary may acquire and process new geological and geophysical data or use existing geological and geophysical data for any moratorium area if the Secretary determines that additional information is needed to identify and assess potential prospective areas.

(2) TECHNOLOGY.—In carrying out this subsection, the Secretary shall use any available technology (other than drilling), including 3-D seismic technology, to obtain an accurate estimate of resource potential.

(3) AVAILABILITY OF DATA.—The Secretary may make available newly acquired geological and geophysical data under this subsection on a cost recovery basis to recover the full costs expended for acquisition and processing of new geological and geophysical data.

(c) ADMINISTRATION.—

(1) IN GENERAL.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, to expedite collection of geological and geophysical data under this section, each Federal agency shall conduct and complete any analyses or consultations that are required to carry out this section.

(2) PROTECTED SPECIES.—Before conducting any geological and geophysical survey required under this subtitle in any prospective area, the Secretary shall, at a minimum, implement the mitigation, monitoring, and reporting measures that are used for protected species in the Gulf of Mexico region.

(d) ENVIRONMENTAL AND SOCIOECONOMIC STUDIES.—

(1) IN GENERAL.—The Secretary may conduct, directly or by contract, environmental or socioeconomic studies for any prospective area identified under subsection (a).

(2) INTERAGENCY ACTION.—The Secretary, acting through the Minerals Management Service, may work jointly with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, or other relevant agencies—

(A) to compile existing environmental and socioeconomic information on prospective areas; or

(B) obtain new environmental or socioeconomic studies for identified prospective areas.

**SEC. 1773. SHARING INFORMATION WITH STATES AND OTHER STAKEHOLDERS.**

(a) IN GENERAL.—The Secretary shall establish a process—

(1) to share information identified by actions taken under section 1772 to identify 10 most prospective areas; and

(2) to obtain input from States or other stakeholders on the prospective areas.

(b) PROCESS.—The process shall include workshops or meetings with—

(1) the public;

(2) Governors or designated officials from appropriate States; and

(3) other relevant user groups.

**SEC. 1774. REPORTS.**

(a) IDENTIFICATION OF PROSPECTIVE AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) an identification of the 10 most prospective oil and gas areas within the moratorium areas using existing information;

(2) a summary of environmental and socioeconomic information relating to the 10 prospective areas; and

(3) a schedule for completion of any environmental or socioeconomic impact studies or consultations planned for those prospective areas.

(b) POTENTIAL OF PROSPECTIVE AREAS.—Not later than 42 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) a summary of the potential oil and gas resources in the 10 most prospective areas based on all available and newly acquired information;

(2) a description of the consultation process under section 1773 that will be used to share information and obtain input from stakeholders concerning the 10 most prospective areas; and

(3) recommendations on approaches for recovery of costs expended for acquisition and processing of new geological and geophysical data or conducting other studies for the report.

(c) INPUT.—Not later than 180 days after submission of the report required under subsection (b), the Secretary shall submit to Congress a summary of the input from the process required under section 1773.

**SEC. 1775. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary to carry out this subtitle $450,000,000, to remain available until expended.

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**SA 4928.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

**Subtitle D—Carbon Management Programs**

**SEC. 1031. FUTURE FUELS CORPORATION.**

Subtitle A of title XVI of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1109) is amended by adding at the end the following:

**''SEC. 1602. FUTURE FUELS CORPORATION.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Future Fuels Corporation (referred to in this section as the 'Corporation') is established as a government corporation.

''(2) ADMINISTRATION.—The Corporation shall be subject to—

''(A) this section; and

''(B) chapter 91 of title 31, United States Code.

''(3) BOARD OF DIRECTORS.—

''(A) IN GENERAL.—The Corporation shall be managed by a board of directors composed of 13 individuals who are citizens of the United States, appointed by the President, by and with the advice and consent of the Senate.

''(B) LIMITATION.—For purposes of making appointments under subparagraph (A), the board of directors shall not include more than 7 members affiliated with the same political party as the President at any 1 time.

''(C) CHAIRPERSON.—The board of directors shall annually elect a Chairperson from among the members of the board of directors.

''(D) TERM.—The term of a member of the board of directors shall be 5 years.

''(4) TRANSFERS.—The Secretary shall transfer to the Corporation any amounts made available under subsection (c).

''(b) USE OF FUNDS.—Beginning in fiscal year 2010, funds transferred by the Secretary to the Corporation under subsection (a)(4) shall be expended by the Corporation to—

''(1) promote and deploy coal and coal cofired polygeneration technologies;

''(2) reduce—

''(A) the carbon footprint of coal consumption; and

''(B) the production of coal-based byproducts; and

''(3) conduct widespread carbon sequestration research, development, and deployment activities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $17,500,000,000 for the period of fiscal years 2008 through 2012.''.

**SEC. 1032. CARBON CAPTURE AND STORAGE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.**

Section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) is amended—

(1) in the section heading, by striking ''**AND SEQUESTRATION**'' and inserting ''**AND STORAGE**'';

(2) in subsection (a), by striking ''and sequestration'' and inserting ''and storage''; and

(3) by striking subsections (c) and (d) and inserting the following:

''(c) PROGRAMMATIC ACTIVITIES.—

''(1) GOAL.—The Secretary shall establish a program under which the Secretary shall conduct activities necessary to achieve the goal of annually sequestering at least 1,000,000 tons of carbon dioxide by January 1, 2015.

''(2) REVIEW OF EXISTING DATA.—Not later than 180 days after the date of enactment of the Lieberman-Warner Climate Security Act of 2008, the Secretary shall—

''(A) verify and analyze the results of any assessment conducted by any other Federal agency or a State relating to geological storage capacity and the potential for carbon injection rates, including a risk analysis of any potential geologic storage areas assessed; and

''(B) submit to the appropriate committees of Congress a report that describes the results of the verification and analyses under subparagraph (A).

''(3) RECOMMENDATIONS.—As soon as practicable after the date of enactment of the Lieberman-Warner Climate Security Act of 2008, the Secretary shall submit to the appropriate committees of Congress recommendations on appropriate regulatory and advisory mechanisms for—

''(A) the determination of best technologies;

''(B) the identification and evaluation of state-of-the-art research, development, and deployment strategies for carbon capture and storage technologies;

''(C) the selection and operation of carbon dioxide sequestration sites; and

''(D) the transfer of liability for the sites to the United States.

''(4) INTERSTATE COMPACTS.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop model

interstate compacts to govern the transportation, injection, and storage of carbon dioxide.

''(5) DEMONSTRATION PROJECT.—The Secretary shall conduct geological sequestration demonstration projects involving carbon dioxide sequestration operations in a variety of candidate geological settings, including—

''(A) oil and gas reservoirs;

''(B) unmineable coal seams;

''(C) deep saline aquifers;

''(D) basalt and shale formations; and

''(E) terrestrial sequestration, including restoration project sites provided assistance by the Abandoned Mine Reclamation Fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) .

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $100,000,000 for each of fiscal years 2009 and 2010;

''(B) $105,000,000 for fiscal year 2011;

''(C) $110,000,000 for fiscal year 2012;

''(D) $115,000,000 for fiscal year 2013; and

''(E) $120,000,000 for fiscal year 2014.

''(2) AVAILABILITY OF FUNDS.—Funds made available for a fiscal year under paragraph (1)—

''(A) shall remain available until expended, but not later than September 30, 2014; and

''(B) may be reprogrammed, at the discretion of the Secretary, for expenditure for other demonstration projects under this title only after—

''(i) September 30, 2010; and

''(ii) the Secretary provides notice of the proposed reprogramming to the appropriate committees of Congress.''.

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**SA 4929.** Mr. SMITH (for himself, Mr. WYDEN, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, between lines 3 and 4, insert the following:

**SEC. 537. COMMUNITY COLLEGE SUSTAINABILITY.**

(a) SHORT TITLE.—This section may be cited as the ''Community College Sustainability Act''.

(b) DEFINITION.—In this section, the term ''community college'' means a 2–year institution of higher education, as such term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(c) WORKFORCE TRAINING AND EDUCATION IN RENEWABLE ENERGY AND EFFICIENCY, GREEN TECHNOLOGY, AND SUSTAINABLE ENVIRONMENTAL PRACTICES.—From funds made available under subsection (e), the Secretary of Labor shall carry out a sustainability workforce training and education program. In carrying out the program, the Secretary shall award grants to community colleges to provide workforce training and education in industries and practices, such as—

(1) alternative energy, including wind and solar energy;

(2) green construction, green retrofitting, and green design;

(3) green chemistry, green nanotechnology, or green technology;

(4) water and energy conservation;

(5) recycling and waste reduction;

(6) sustainable agriculture and farming; and

(7) sustainable culinary practices.

(d) AWARD CONSIDERATIONS.—Of the funds made available under subsection (c) for a fiscal year, not less than $100,000,000 shall be awarded to community colleges with existing (as of the date of the award) sustainability programs that lead to certificates or degrees in 1 or more of the industries and practices described in paragraphs (1) through (7) of subsection (c).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated and there are appropriated to carry out this section $200,000,000 for fiscal year 2009 and each subsequent fiscal year.

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**SA 4930.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Nuclear Regulatory Commission**

**SEC. 1771. FUNDING FOR REVIEW OF YUCCA MOUNTAIN LICENSE APPLICATION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, out of any funds in the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) not otherwise appropriated, the Secretary of the Treasury shall transfer to the Nuclear Regulatory Commission $85,000,000 for each of fiscal years 2009 through 2011, to remain available until expended.

(b) RECEIPT AND ACCEPTANCE.—The Nuclear Regulatory Commission shall be entitled to receive, shall accept, and shall use in accordance with subsection (c) the funds transferred under subsection (a), without further appropriation.

(c) USE OF FUNDS.—The Nuclear Regulatory Commission shall use funds transferred under subsection (a) for review by the Commission of the Yucca Mountain license application of the Department of Energy.

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**SA 4931.** Mr. INHOFE (for himself, Mr. VITTER, Mr. CRAIG, Mr. DEMINT, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—NUCLEAR WASTE POLICY**

**SEC. 1801. SHORT TITLE.**

This title may be cited as the ''Nuclear Waste Policy Amendments Act of 2008''.

**SEC. 1802. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) progress toward the safe disposal of spent nuclear fuel and high-level radioactive waste will help ensure that the expanded use of nuclear energy will contribute to meeting the growing need of the United States for reliable, cost-effective energy;

(2) the Federal Government has the responsibility to provide for permanent disposal of spent nuclear fuel, high-level radioactive waste, and waste generated from United States atomic energy defense activities;

(3) the obligation of the Federal Government to develop a repository provides sufficient grounds for findings by the Nuclear Regulatory Commission that spent nuclear fuel and high-level radioactive waste will be disposed of safely and in a timely manner;

(4) the electricity consumers and nuclear power plant operators of the United States have paid in excess of $27,000,000,000 in fees and interest to fund disposal of spent nuclear fuel and high-level radioactive waste;

(5) the National Research Council of the National Academy of Sciences—

(A) since 1957, has endorsed the concept of deep geologic disposal of high-level radioactive waste as a long-term solution based on scientific and technical analysis; and

(B) maintains that deep geologic disposal remains as the only long-term solution available for the disposal of high-level radioactive waste;

(6) in 2002, the Yucca Mountain site was recommended by the President and approved by Congress for development as a deep geologic repository;

(7) operation of a repository in accordance with the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is nearly 20 years behind schedule;

(8) the delay has—

(A) resulted in judicial findings of a partial breach of contract on the part of the Federal Government; and

(B) subjected taxpayers to billions of dollars in liability;

(9) the Commission should allow the upgrade of non-nuclear infrastructure at the repository site prior to construction in an effort to accelerate progress and reduce taxpayer liability;

(10) the repository should be licensed to safely use the maximum potential capacity of the repository, based on scientific and technical considerations; and

(11) the development of the repository should incorporate technological advances to improve protection of public health and safety and the environment on a regular basis while retaining the option of retrieval.

(b) PURPOSES.—The purposes of this title are—

(1) to encourage the expanded contribution of nuclear energy to meet the growing need of the United States for safe, reliable, and cost-effective energy;

(2) to provide a process for the expeditious and safe development and operation of a repository at the Yucca Mountain site;

(3) to require periodic system improvements based on advances in technology and understanding to enhance the protection of public health and safety and the environment;

(4) to clarify the authority of the Secretary to carry out infrastructure activities without prejudicing the consideration of the Commission with respect to repository applications; and

(5) to provide guidance to the Commission with respect to the consideration by the Commission of spent nuclear fuel and high-level waste disposal during new reactor licensing proceedings.

**SEC. 1803. DEFINITIONS.**

In this title:

(1) COMMISSION.—The term ''Commission'' means the Nuclear Regulatory Commission.

(2) REPOSITORY.—The term ''repository'' has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

**Subtitle A—Licensing**

**SEC. 1811. APPLICATIONS.**

Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) in the subsection heading, by striking ''APPLICATION'' and inserting ''APPLICATIONS'';

(2) by striking ''If the President'' and inserting the following:

''(1) IN GENERAL.—If the President''; and

(3) by adding at the end the following:

''(2) APPLICATION PROCESSES.—

''(A) IN GENERAL.—The Secretary shall submit, and the Commission shall review, each application described in this paragraph.

''(B) APPLICATION FOR A CONSTRUCTION AUTHORIZATION.—

''(i) REQUIRED INFORMATION.—An application for a construction authorization for a repository at a site shall contain provisions—

''(I) for the establishment of, and preliminary information relating to, a continuing program, including underground repository surveillance, measurement, and testing and research and development of technologies that may improve the safety or operation of the repository—

''(aa) to be carried out during the operation of the repository; and

''(bb) to monitor, evaluate, and confirm repository performance; and

''(II) for the development of a strategy to ensure the ability of the repository to retrieve, for a period of not less than 300 years beginning on the date on which the repository first commences operation, each quantity of spent nuclear fuel and high-level radioactive waste stored at the repository.

''(ii) AUTHORIZED INFORMATION.—An application for a construction authorization shall not be required to contain any information—

''(I) relating to any surface facility other than any surface facility determined by the Secretary to be necessary for the initial operation of the repository; and

''(II) that is required under subparagraph (D) for an application relating to the permanent closure of the repository.

''(C) APPLICATION TO AMEND A CONSTRUCTION AUTHORIZATION TO RECEIVE AND POSSESS SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—

''(i) REQUIRED INFORMATION.—An application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste at a repository shall contain provisions for the establishment of, and final information relating to—

''(I) a continuing program, including underground repository surveillance, measurement, and testing, and research and development of technologies that may improve the safety or operation of the repository—

''(aa) to be carried out during the operation of the repository; and

''(bb) to monitor, evaluate, and confirm repository performance;

''(II) a procedure to provide for periodic revisions of the license of the repository that shall be conducted—

''(aa) to modify the license based on the results of the program described in subclause (I); and

''(bb) at intervals of not more than 50 years; and

''(III) a program to ensure the ability of the repository to retrieve, for a period of not less than 300 years beginning on the date on which the repository first commences operation, each quantity of spent nuclear fuel and high-level radioactive waste stored at the repository.

''(ii) AUTHORIZED INFORMATION.—An application to amend a construction authorization for permission to receive and possess spent nuclear fuel and high-level radioactive waste shall not be required to contain—

''(I) any information that was included in an application or considered by the Commission in connection with the issuance of a construction authorization for the repository for which authorization to receive and possess the spent nuclear fuel and high-level radioactive waste is sought; or

''(II) any information that is required under subparagraph (D) for an application relating to the permanent closure of the repository.

''(iii) REQUIREMENTS RELATING TO AUTHORIZATION.—If the Commission approves an application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste, the Commission shall impose such requirements relating to the program, periodic amendment, and retrievability as the Commission determines to be appropriate.

''(D) APPLICATION TO PERMANENTLY CLOSE REPOSITORY.—

''(i) AUTHORITY OF SECRETARY.—The Secretary may submit to the Commission an application to permanently close the repository.

''(ii) CONTENTS.—An application to permanently close the repository shall contain information that is sufficient to demonstrate to the Commission that there is a reasonable expectation that the health and safety of the public will be adequately protected from any release generated by any radioactive material disposed of in the repository in accordance with each standard promulgated pursuant to section 801 of the Energy Policy Act of 1992 (42 U.S.C. 10141 note; Public Law 102–486).''.

**SEC. 1812. APPLICATION PROCEDURES; INFRASTRUCTURE ACTIVITIES.**

Section 114 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134) is amended by striking subsection (d) and inserting the following:

''(d) COMMISSION ACTION.—

''(1) REVIEW OF REGULATIONS.—The Commission shall review and modify each applicable regulation promulgated by the Commission as determined to be necessary by the Commission to ensure that each application described in subsection (b)(2) contains sufficient information for the Commission to determine whether the repository could be operated for a period of not less than 300 years beginning on the date on which the repository first commences operation.

''(2) APPROVAL PROCESS RELATING TO APPLICATION FOR CONSTRUCTION AUTHORIZATION.—

''(A) APPLICATION DEADLINE.—Not later than June 30, 2008, the Secretary shall submit to the Commission an application for a construction authorization for a repository site.

''(B) CONSIDERATION.—The Commission shall consider the application for a construction authorization in accordance with the informal hearing process described in subpart L of part 2 of chapter 1 of title 10, Code of Federal Regulations (as in effect on January 1, 2006).

''(C) AUTHORIZATION OF CONSTRUCTION.—Upon review and consideration of an application for a construction authorization, the Commission shall approve the application if the Commission determines that there is a reasonable expectation that the health and safety of the public will be adequately protected for a period of not less than 300 years beginning on the date on which the repository first commences operation.

''(D) FINAL DECISION DEADLINE.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 3 years after the date on which the Secretary submits to the Commission an application for a construction authorization under subparagraph (A), the Commission shall carry out all activities relating to the consideration of an application for all or part of a repository, including—

''(I) a sufficiency review and docketing of the application;

''(II) the completion of safety and environmental reviews;

''(III) the conduct of hearings; and

''(IV) the issuance of a final decision approving or disapproving the issuance of a construction authorization.

''(ii) EXCEPTION.—The Commission may extend the deadline described in clause (i) by a period of not more than 1 year if, not less than 30 days before the date on which the deadline occurs, the Commission complies with each reporting requirement described in subsection (e)(2).

''(E) ADMINISTRATION.—In carrying out the actions required by this section, the Commission shall—

''(i) issue such partial initial decisions as the Commission determines to be appropriate to expedite the review of applications described in subparagraph (A); and

''(ii) consider each application, in whole or in part, in accordance with law applicable to the application.

''(3) APPROVAL PROCESS RELATING TO APPLICATION TO AMEND A CONSTRUCTION AUTHORIZATION TO RECEIVE AND POSSESS SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—

''(A) SUBMISSION OF APPLICATION.—If the Commission approves an application for a construction authorization under paragraph (2), not later than 90 days after the effective date of the construction authorization, the Secretary shall submit to the Commission an application to amend the construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste.

''(B) CONSIDERATION.—

''(i) IN GENERAL.—The Commission shall consider an application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste in accordance with—

''(I) the informal hearing process described in subpart L of part 2 of chapter 1 of title 10, Code of Federal Regulations (as in effect on January 1, 2006); and

''(II) discovery procedures to minimize the burden of each party of submitting to the Commission documents that the Commission determines are not necessary for the Commission to approve the application for an authorization to receive and possess spent nuclear fuel and high-level radioactive waste.

''(ii) MATTERS RESOLVED DURING APPROVAL OF CONSTRUCTION AUTHORIZATION.—In considering an application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste under clause (i), the Commission shall consider to be resolved each matter resolved during the consideration by the Commission of the construction authorization that is the subject of the application.

''(C) PERMISSION TO RECEIVE AND POSSESS SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—Upon review and consideration of an application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste, the Commission shall approve the application if the Commission determines that there is a reasonable expectation that the health and safety of the public will be adequately protected for a period of not less than 300 years beginning on the date on which the repository first commences operation.

''(D) FINAL DECISION DEADLINE.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 540 days after the date on which the Secretary submits to the Commission an application to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste under subparagraph (A), the Commission shall issue a final decision approving or disapproving the issuance of a license to receive and possess spent nuclear fuel and high-level radioactive waste.

''(ii) EXCEPTION.—The Commission may extend the deadline described in clause (i) by a

period of not more than 180 days if, not less than 30 days before the date on which the deadline occurs, the Commission complies with each reporting requirement described in subsection (e)(2).

''(4) REVIEW OF REGULATIONS RELATING TO APPLICATIONS FOR PERMANENT CLOSURE.—To conform the application process for the permanent closure of the repository with the requirements of this Act, the Commission shall review and modify each regulation promulgated by the Commission relating to the application process for the permanent closure of a repository.

''(5) INFRASTRUCTURE ACTIVITIES.—

''(A) AUTHORITY OF SECRETARY.—At any time before or after the Commission issues a final decision on an application for a construction authorization under paragraph (2), the Secretary may carry out infrastructure activities that the Secretary determines to be necessary or appropriate to support the construction of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high-level radioactive waste, including—

''(i) safety upgrades;

''(ii) site preparation activities;

''(iii) the construction of—

''(I) a rail line to connect the Yucca Mountain site with the national rail network; and

''(II) any facility necessary for the operation of the rail line described in subclause (I); and

''(iv) the construction, upgrade, acquisition, or operation of—

''(I) electrical grids or facilities;

''(II) related utilities;

''(III) communication facilities;

''(IV) access roads;

''(V) rail lines; and

''(VI) nonnuclear support facilities.

''(B) COMPLIANCE.—

''(i) IN GENERAL.—Subject to clause (ii), in carrying out any infrastructure activity under subparagraph (A), the Secretary shall comply with each applicable requirement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(ii) AUTHORITY OF SECRETARY.—If the Secretary determines that an environmental impact statement, environmental assessment, or other environmental analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is required in carrying out an infrastructure activity under subparagraph (A), the Secretary shall not be required to consider in that statement, assessment, or analysis—

''(I) the need for the action;

''(II) any alternative action; or

''(III) any no-action alternative.

''(iii) OTHER FEDERAL AGENCIES.—

''(I) IN GENERAL.—If a Federal agency is required to consider the potential environmental impact of an infrastructure activity carried out under subparagraph (A), the Federal agency shall, without further action, adopt, to the maximum extent practicable, any environmental impact statement, environmental assessment, or other environmental analysis prepared by the Secretary.

''(II) EFFECT OF ADOPTION OF STATEMENT.—The adoption by a Federal agency of an environmental impact statement, environmental assessment, or other environmental analysis under subclause (I) shall satisfy each applicable responsibility of the Federal agency relating to the applicable infrastructure activity of the Federal agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) CONSIDERATION BY COMMISSION.—The Commission shall not consider the fact that the Secretary has undertaken an infrastructure activity under this paragraph as a factor in determining whether to approve, deny, or condition an application—

''(i) for a construction authorization;

''(ii) to amend a construction authorization to receive and possess spent nuclear fuel and high-level radioactive waste; or

''(iii) for any other action relating to the repository.

''(6) PROCEDURES.—In reviewing applications under this subsection, the Commission shall use procedures that ensure the transparent review and resolution of key scientific and technical issues in a timely manner.''.

**SEC. 1813. CONNECTED ACTIONS.**

Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended—

(1) by striking ''site, or'' and inserting ''site,''; and

(2) by inserting before the period at the end the following: '', or any action related to construction or operation of a rail transport system for transporting spent nuclear fuel or high-level radioactive waste to the repository''.

**SEC. 1814. WASTE CONFIDENCE.**

For purposes of a determination by the Commission on whether to grant, amend, or renew any license to construct or operate any civilian nuclear power reactor or high-level radioactive waste or spent fuel storage or treatment facility under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)—

(1) the obligation of the Secretary to develop a repository in accordance with the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurances that spent nuclear fuel and high-level radioactive waste would be disposed of safely and in a timely manner; and

(2) no consideration of the environmental impact of the storage of spent nuclear fuel or high-level radioactive waste on the site of the civilian nuclear power reactor or high-level radioactive waste or spent fuel storage or treatment facility under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for the period following the term of the license for the facility, shall be required in any environmental impact statement, environmental assessment, environmental analysis, or other analysis prepared in connection with the issuance, amendment or renewal of a license to construct or operate the facility.

**SEC. 1815. DEFINITION OF HIGH-LEVEL RADIOACTIVE WASTE.**

Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended by striking paragraph (12) and inserting the following:

''(12) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing in the United States of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations;

''(B) the highly radioactive material described in section 3(b)(1)(D) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021c(b)(1)(D) resulting from the operation of facilities licensed under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134); and

''(C) any other highly radioactive material that the Commission, consistent with law, may determine by rule requires permanent isolation.''.

**Subtitle B—Administration**

**SEC. 1821. AIR QUALITY PERMITS.**

Section 114 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134) is amended by adding at the end the following:

''(g) AIR QUALITY.—

''(1) IN GENERAL.—The Administrator shall issue, administer, and enforce any air quality permit or requirement applicable to any facility under the jurisdiction of, or any activity carried out by, a Federal agency that is subject to the requirements of this Act.

''(2) PREEMPTION OF STATE LAWS.—No State or political subdivision of a State may issue, administer, or enforce any air quality permit or requirement applicable to any facility under the jurisdiction of, or any activity carried out by, a Federal agency that is subject to the requirements of this Act.''.

**SEC. 1822. EXPEDITED AUTHORIZATIONS.**

Section 120 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10140) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by inserting '', or the conduct of an infrastructure activity,'' after ''repository'';

(B) by inserting '', State, local, or tribal'' after ''Federal'' each place it appears; and

(C) in the second sentence, by striking ''repositories'' and inserting ''a repository or infrastructure activity'';

(2) in subsection (b), by striking '', and may include terms and conditions permitted by law''; and

(3) by adding at the end the following:

''(c) FAILURE TO GRANT AUTHORIZATION.—An agency or officer that fails to grant authorization by the date that is 1 year after the date of receipt of an application or request from the Secretary subject to subsection (a) shall submit to Congress a written report that explains the reason for the failure to grant the authorization (or to reject the application or request) by that date.

''(d) TREATMENT OF ACTIONS.—For the purpose of applying any Federal, State, local, or tribal law or requirement, the taking of an action relating to a repository or an infrastructure activity shall be considered to be—

''(1) beneficial, and not detrimental, to the public interest and interstate commerce; and

''(2) consistent with the public convenience and necessity.''.

**SEC. 1823. APPLICABILITY OF LAW TO CERTAIN MATERIALS.**

Subtitle A of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10131 et seq.) is amended by adding at the end the following:

**''SEC. 126. APPLICABILITY OF LAW TO CERTAIN MATERIALS.**

''Section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)) shall not apply to—

''(1) any material, the title of which is in the possession of the Secretary, if the material is transported or stored in a package, cask, or other container that the Commission has certified for transportation or storage of that type of material; or

''(2) any material located at the Yucca Mountain site for disposal if the management and disposal of the material is managed or disposed of in accordance with a license issued by the Commission.''.

**SEC. 1824. AGREEMENT WITH STATE OF NEVADA.**

Section 170 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10173) is amended by striking subsection (c) and inserting the following:

''(c) AGREEMENT WITH STATE OF NEVADA.—

''(1) AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a benefits agreement with the Governor of the State of Nevada (referred to in this subsection as the 'State').

''(B) CONSULTATION.—A benefits agreement under this paragraph shall be negotiated in consultation with affected units of local government in the State.

''(C) REQUIREMENT.—A benefits agreement under this paragraph shall require that no funds received under the benefits agreement

shall be used to finance, promote, or assist any activity the goal or effect of which is to slow, interrupt, or prevent the licensing, construction, or operation of a geological repository at Yucca Mountain in the State.

''(2) PAYMENTS.—Subject to paragraph (3), the Secretary may pay to the State, pursuant to a benefits agreement under paragraph (1)—

''(A) $100,000,000 for each fiscal year during the period beginning on the date on which a license application to build a geological repository in the State is submitted to Secretary and ending on the date on which the license is granted;

''(B) $250,000,000 for each fiscal year during the construction phase of the approved geological repository; and

''(C) $500,000,000 for each fiscal year beginning after the date on which spent nuclear fuel is initially stored in the approved geological repository.

''(3) CONDITIONS.—

''(A) SOURCE OF FUNDS.—The Secretary shall use only amounts in the Low- and Zero-Carbon Electricity Technology Fund established by section 902 of the Lieberman-Warner Climate Security Act of 2008 to make payments to the State pursuant to paragraph (2).

''(B) PROHIBITION.—No amounts in the Nuclear Waste Fund established by section 302(c) shall be used to make payments to the State pursuant to paragraph (2).

''(C) DISTRIBUTION TO AFFECTED UNITS OF LOCAL GOVERNMENT.—Of the amount of funds made available to the State for a fiscal year under paragraph (2), the State shall provide—

''(i) 5 percent of the amount to Nye County; and

''(ii) 5 percent of the amount to other affected units of local government.''.

**SEC. 1825. AUTHORITY FOR NEW STANDARD CONTRACTS.**

Section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(5)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(2) by striking ''(5) Contracts'' and inserting the following:

''(5) REQUIREMENTS RELATING TO CONTRACTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a contract''; and

(3) by adding at the end the following:

''(B) CIVILIAN NUCLEAR POWER REACTORS.—After the date of enactment of the Nuclear Waste Policy Amendments Act of 2008, for any civilian nuclear power reactor for which a license application is filed with the Commission in accordance with section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134), a contract under this section shall—

''(i) not later than 60 days after the date on which the Commission dockets the license application, be entered into by the Secretary;

''(ii) be consistent with the standard contract for disposal of spent nuclear fuel and/or high-level radioactive waste described in section 961.11 of title 10, Code of Federal Regulations (as in effect on January 1, 2006);

''(iii) require that not later than 35 years after the date on which the civilian nuclear power reactor first commences commercial operation, the Secretary take title to, transport, and dispose of the spent nuclear fuel or high-level radioactive waste of the civilian nuclear power reactor; and

''(iv) not contain any provision that provides for the adjustment of the 1.0 mil per kilowatt-hour fee established by paragraph (2).''.

**SA 4932.** Mr. CRAIG (for himself, Mr. DOMENICI, Mr. BARRASSO, Mr. ALLARD, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, strike lines 19 through 24 and insert the following:

(1) ADDITIONAL; ADDITIONALITY.—

(A) IN GENERAL.—The terms ''additional'' and ''additionality'' mean the extent to which reductions in greenhouse gas emissions or increases in sequestration are incremental to business-as-usual, measured as the difference between—

(i) baseline greenhouse gas fluxes of an offset project; and

(ii) greenhouse gas fluxes of the offset project.

(B) BIOLOGICAL SEQUESTRATION.—The terms ''additional'' and ''additionality'' mean, with respect to biological sequestration, the extent to which reductions in greenhouse gas emissions or increases in sequestration are incremental to the baseline, measured as the difference between—

(i) the baseline established for the applicable base year; and

(ii) verified net changes in greenhouse gases or carbon stocks.

On page 25, lines 20 and 21, strike ''sections 1313(a) and 1314(b)'' and insert ''section 1313(a)''.

Beginning on page 74, strike line 6 through 9 and insert the following:

**TITLE III—REDUCING EMISSIONS THROUGH DOMESTIC OFFSETS**

On page 78, lines 4 and 5, strike ''international allowances under section 322 and''.

On page 84, strike lines 7 through 14 and insert the following:

(B) changes in carbon stocks attributed to land use change and forestry activities, including—

(i) afforestation or reforestation of acreage not forested as of October 18, 2007;

(ii) sustainably managed forests resulting in positive changes in carbon stocks, including—

(I) long-lived wood products in use for a period of at least 100 years; and

(II) wood stored in landfills in accordance with guidelines established pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); and

(iii) conservation of grassland and forested land;

On page 98, line 7, strike ''and''.

On page 98, between lines 7 and 8, insert the following:

(C) guidelines established pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) for use in the quantification of forestry and agriculture offsets; and

On page 98, line 8, strike ''(C)'' and insert ''(D)''.

On page 98, strike lines 20 through 23 and insert the following:

(B) except in any case in which a forest is managed under a third-party certification system (including but not limited to, the Sustainable Forestry Initiative, the Forest Stewardship Council, and the American Tree Farm System), require that leakage be subtracted from reductions, destruction, avoidance in greenhouse gas emissions or increases in sequestration attributable to a project.

Beginning on page 98, strike line 24 and all that follows through page 99, line 18, and insert the following:

(2) ADDITIONALITY DETERMINATION AND BASELINE ESTIMATION.—The standardized methods used to determine additionality and establish baselines shall, for each project type, at a minimum—

(A) in the case of a biological sequestration project, determine the greenhouse gas flux or change in carbon stocks using a base year as the baseline carbon stocks, to be established using forest and agriculture inventory quantification methods in accordance with section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b));

(B) in the case of an emission reduction project, use as a basis emissions from comparable land or facilities; and

(C) in the case of a sequestration project or emission reduction project, specify a selected time period.

On page 112, between lines 2 and 3, insert the following:

**SEC. 312. DOMESTIC FORESTRY CARBON MANAGEMENT TOOLS.**

(a) DEFINITION OF RENEWABLE BIOMASS.—Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking subparagraph (I) and inserting the following:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to the date of enactment of the Lieberman-Warner Climate Security Act of 2008 that is—

''(I) actively managed; or

''(II) fallow and nonforested;

''(ii) renewable materials (such as trees, wood, brush, thinnings, chips, and slash) that—

''(I) are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are removed from National Forest System land or public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) in accordance with—

''(aa) applicable land management plans; and

''(bb) the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(iii) renewable materials (such as trees, wood, brush, thinnings, chips, and slash) that are removed from non-Federal forest land or from forest land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) animal waste and byproducts (including fats, oils, greases, and manure);

''(II) algae; and

''(III) separated yard waste or food waste, including recycled cooking and trap grease.''.

(b) TAX CREDIT RATE PARITY FOR OPEN-LOOP BIOMASS FACILITIES.—

(1) IN GENERAL.—Section 45(b)(4)(A) of the Internal Revenue Code of 1986 (relating to credit rate) is amended by striking ''(3),''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to electricity produced and sold in calendar years beginning after the date of the enactment of this Act.

(c) STEWARDSHIP END-RESULT CONTRACTING PROJECTS.—Section 8 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2104) is amended—

(1) by redesignating subsection (h) as subsection (j) and moving that subsection so as to appear at the end of the section; and

(2) by inserting after subsection (g) the following:

''(h) CANCELLATION OR TERMINATION COSTS.—

''(1) IN GENERAL.—Notwithstanding section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c) or any other provision of law, the Secretary shall not obligate funds to cover the cost of cancelling a Forest Service stewardship multiyear contract under section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; section 101(e) of division A of Public Law 105–277) until the contract is cancelled.

''(2) COST OF CANCELLATION OR TERMINATION.—The costs of any cancellation or termination of a multiyear stewardship contract may be paid from any appropriations that are made available to the Forest Service.

''(3) ANTI-DEFICIENCY ACT VIOLATIONS.—In a case in which payment or obligation of funds under this subsection would constitute a violation of section 1341 of title 31, United States Code (commonly known as the 'Anti-Deficiency Act'), the Secretary shall seek a supplemental appropriation.''.

Beginning on page 112, strike line 3 and all that follows through page 116, line 16.

On page 150, strike lines 15 through 22 and insert the following:

(3) Increase the quantity of offset allowances.

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**SA 4933.** Mr. CRAIG (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—NEXT GENERATION NUCLEAR PLANT**

**SEC. 1801. NEXT GENERATION NUCLEAR PLANT PROJECT MODIFICATIONS.**

(a) PROJECT ESTABLISHMENT.—Section 641 of the Energy Policy Act of 2005 (42 U.S.C. 16021) is amended—

(1) in subsection (a)—

(A) by striking the subsection designation and heading and all that follows through ''The Secretary'' and inserting the following:

''(a) ESTABLISHMENT AND OBJECTIVE.—

''(1) ESTABLISHMENT.—The Secretary''; and

(B) by adding at the end the following:

''(2) OBJECTIVE.—

''(A) DEFINITION OF HIGH-TEMPERATURE, GAS-COOLED NUCLEAR ENERGY TECHNOLOGY.—In this paragraph, the term 'high-temperature, gas-cooled nuclear energy technology' means any nongreenhouse gas-emitting nuclear energy technology that provides—

''(i) an alternative to the burning of fossil fuels for industrial applications; and

''(ii) process heat to generate, for example, electricity, steam, hydrogen, and oxygen for activities such as—

''(I) petroleum refining;

''(II) petrochemical processes;

''(III) converting coal to synfuels and other hydrocarbon feedstocks; and

''(IV) desalination.

''(B) DESCRIPTION OF OBJECTIVE.—The objective of the Project shall be to carry out demonstration projects for the development, licensing, and operation of high-temperature, gas-cooled nuclear energy technologies to support commercialization of those technologies.

''(C) REQUIREMENTS.—The functional, operational, and performance requirements for high-temperature, gas-cooled nuclear energy technologies shall be determined by the needs of marketplace industrial end-users (such as owners and operators of nuclear energy facilities, petrochemical entities, and petroleum entities), as projected for the 40-year period beginning on the date of enactment of this paragraph.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting ''licensing,'' after ''design,'';

(B) in paragraph (1), by striking ''942(d)'' and inserting ''952(d)''; and

(C) by striking paragraph (2) and inserting the following:

''(2) demonstrates the capability of the nuclear energy system to provide high-temperature process heat to produce—

''(A) electricity, steam, and other heat transport fluids; and

''(B) hydrogen and oxygen, separately or in combination.''.

(b) PROJECT MANAGEMENT.—Section 642 of the Energy Policy Act of 2005 (42 U.S.C. 16022) is amended to read as follows:

**''SEC. 642. PROJECT MANAGEMENT.**

''(a) DEPARTMENTAL MANAGEMENT.—

''(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy.

''(2) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Project may be carried out in coordination with the Generation IV Nuclear Energy Systems Initiative.

''(B) REQUIREMENT.—Regardless of whether the Project is carried out in coordination with the Generation IV Nuclear Energy Systems Initiative under subparagraph (A), the Secretary shall establish a separate budget line-item for the Project.

''(3) INTERACTION WITH INDUSTRY.—Any activity to support the Project by an individual or entity in the private industry shall be carried out pursuant to a competitive cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Department and the industry group established under subsection (c).

''(b) LABORATORY MANAGEMENT.—

''(1) IN GENERAL.—The Idaho National Laboratory shall be the lead National Laboratory for the Project.

''(2) COLLABORATION.—The Idaho National Laboratory shall collaborate regarding research and development activities with other National Laboratories, institutions of higher education, research institutes, representatives of industry, international organizations, and Federal agencies to support the Project.

''(c) INDUSTRY GROUP.—

''(1) ESTABLISHMENT.—The Secretary shall establish a group of appropriate industrial partners in the private sector to carry out cost-shared activities with the Department to support the Project.

''(2) COOPERATIVE AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall offer to enter into a cooperative agreement or other assistance agreement with the industry group established under paragraph (1) to manage and support the development, licensing, construction, and initial operation of the Project.

''(B) REQUIREMENT.—The agreement under subparagraph (A) shall contain a provision under which the industry group may enter into contracts with entities in the public sector for the provision of services and products to that sector that reflect typical commercial practices regarding terms and conditions for risk, accountability, performance, and quality.

''(C) PROJECT MANAGEMENT.—

''(i) IN GENERAL.—The industry group shall use commercial practices and project management processes and tools in carrying out activities to support the Project.

''(ii) INTERFACE REQUIREMENTS.—The requirements for interface between the project management requirements of the Department (including the requirements contained in the document of the Department numbered DOE O 413.3A and entitled 'Program and Project Management for the Acquisition of Capital Assets') and the commercial practices and project management processes and tools described in clause (i) shall be defined in the agreement under subparagraph (A).

''(3) COST SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

''(4) PREFERENCE.—Preference in determining the final structure of industrial partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

''(d) PROTOTYPE PLANT SITING.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

''(e) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

''(f) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.''.

(c) PROJECT ORGANIZATION.—Section 643 of the Energy Policy Act of 2005 (42 U.S.C. 16023) is amended—

(1) in subsection (a)(2), by inserting ''transport and'' before ''conversion'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (A), (B), and (D) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) in paragraph (2)—

(i) in subparagraph (B), by striking '', through a competitive process,'';

(ii) in subparagraph (C), by striking ''reactor'' and inserting ''energy system'';

(iii) in subparagraph (D), by striking ''hydrogen or electricity'' and inserting ''energy transportation, conversion, and''; and

(iv) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(D) by striking ''The Project shall be'' and inserting the following:

''(1) IN GENERAL.—The Project shall be''; and

(E) by adding at the end the following:

''(2) OVERLAPPING PHASES.—The phases described in paragraph (1) may overlap for the Project or any portion of the Project, as necessary.''; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking ''powerplant'' and inserting ''power plant'';

(B) in paragraph (2), by adding at the end the following:

''(E) INDUSTRY GROUP.—The industry group established under section 642(c) may enter into any necessary contracts for services, support, or equipment in carrying out an agreement with the Department.''; and

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''RESEARCH'';

(ii) in the matter preceding subparagraph (A), by striking ''Research'';

(iii) by striking ''NERAC'' each place it appears and inserting ''NEAC'';

(iv) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) review program plans for the Project prepared by the Office of Nuclear Energy and all progress under the Project on an ongoing basis; and'';

(v) in subparagraph (B), by striking ''or appoint'' and inserting ''by appointing''; and

(vi) in subparagraph (D)—

(I) by striking ''On a determination'' and inserting the following:

''(i) IN GENERAL.—On a determination'';

(II) in clause (i) (as designated by subclause (I))—

(aa) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(A)''; and

(bb) by striking ''subsection (b)(2)'' and inserting ''subsection (b)(1)(B)''; and

(III) by adding at the end the following:

''(ii) SCOPE.—The scope of the review conducted under clause (i) shall be in accordance with an applicable cooperative agreement or other assistance agreement (such as a technology investment agreement) between the Secretary and the industry group established under section 642(c).''.

(d) NUCLEAR REGULATORY COMMISSION.—Section 644 of the Energy Policy Act of 2005 (42 U.S.C. 16024) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Not later than'' and inserting the following:

''(1) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(2) REQUIREMENT.—To the maximum extent practicable, in carrying out subparagraphs (B) and (C) of paragraph (1), the Nuclear Regulatory Commission shall independently review and, as appropriate, use the results of analyses conducted for or by the license applicant.''; and

(2) by striking subsection (c) and inserting the following:

''(c) ONGOING INTERACTION.—The Nuclear Regulatory Commission shall establish a separate program office for advanced reactors—

''(1) to develop and implement regulatory requirements consistent with the safety bases of the type of nuclear reactor developed by the Project, with the specific objective that the requirements shall be applied to follow-on commercialized high-temperature, gas-cooled nuclear reactors;

''(2) to avoid conflicts in the availability of resources with licensing activities for light water reactors;

''(3) to focus and develop resources of the Nuclear Regulatory Commission for the review of advanced reactors;

''(4) to support the effective and timely review of preapplication activities and review of applications to support applicant needs; and

''(5) to provide for the timely development of regulatory requirements, including through the preapplication process, and review of applications for advanced technologies, such as high-temperature, gas-cooled nuclear technology systems.''.

(e) PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.—Section 645 of the Energy Policy Act of 2005 (42 U.S.C. 16025) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) SUMMARY OF AGREEMENT.—Not later than December 31, 2009, the Secretary shall submit to Congress a report that contains a summary of each cooperative agreement or other assistance agreement (such as a technology investment agreement) entered into between the Secretary and the industry group under section 642(a)(3), including a description of the means by which the agreement will provide for successful completion of the development, design, licensing, construction, and initial operation and demonstration period of the prototype facility of the Project.

''(b) OVERALL PROJECT PLAN.—

''(1) IN GENERAL.—Not later than December 31, 2009, the Secretary shall submit to Congress an overall plan for the Project, to be prepared jointly by the Secretary and the industry group established under section 642(c), pursuant to a cooperative agreement or other assistance agreement (such as a technology investment agreement).

''(2) INCLUSIONS.—The plan under paragraph (1) shall include—

''(A) a summary of the schedule for the design, licensing, construction, and initial operation and demonstration period for the nuclear energy system prototype facility and hydrogen production prototype facility of the Project;

''(B) the process by which a specific design for the prototype nuclear energy system facility and hydrogen production facility will be selected;

''(C) the specific licensing strategy for the Project, including—

''(i) resource requirements of the Nuclear Regulatory Commission; and

''(ii) the schedule for the submission of a preapplication, the submission of an application, and application review for the prototype nuclear energy system facility of the Project;

''(D) a summary of the schedule for each major event relating to the Project; and

''(E) a time-based cost and cost-sharing profile to support planning for appropriations.''; and

(2) in subsection (d), in the matter preceding paragraph (1), by striking ''research and construction activities'' and inserting ''research and development, design, licensing, construction, and initial operation and demonstration activities''.

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**SA 4934.** Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 475, between lines 5 and 6, insert the following:

(d) EFFECTIVE PERIOD.—

(1) IN GENERAL.—This Act and the amendments made by this Act shall not take effect until the later of—

(A) the date on which the National Academy of Sciences submits to the Administrator and Congress a certification that the National Academy of Sciences has determined, with not less than 90 percent certainty, that the implementation of this Act will reduce global average temperature by not less than 0.5 degrees Celsius by January 1, 2050, as compared to the global average temperature that would have existed on that date in the absence of this Act; and

(B) the date on which the Administrator certifies that the cost of implementing this Act will not exceed the ratio that—

(i) $10,000,000,000,000 in reduced gross domestic product of the United States; bears to

(ii) the total number of degrees of globally averaged temperature increase avoided by 2050.

(2) TERMINATION.—The authorities provided by this Act and the amendments made by this Act shall terminate on the date that is 10 years after the date of enactment of this Act if the Administrator determines that China or India has not adopted a climate change proposal similar in scope and effect to this Act by that date.

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**SA 4935.** Mr. CARDIN (for himself, Mr. ALEXANDER, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 474, line 14, strike ''and''.

On page 475, strike line 5 and insert the following:

ties of the covered entities; and

(12) the energy policy of the United States, including—

(A) a review of relevant analyses of the current and long-term energy policies of, and conditions in, the United States;

(B) an identification of the sources and trends, by country of origin, of energy used by the United States;

(C) an identification of problems that might threaten the achievement by the United States of long-term energy policy goals, including energy independence;

(D) an analysis of potential solutions to problems that threaten the long-term ability of the United States to achieve those energy policy goals; and

(E) recommendations to ensure, to the maximum extent practicable, that the energy policy goals of the United States are achieved.

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**SA 4936.** Mr. CARDIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

**Subtitle E—Climate Science Fund**

**SEC. 1241. CLIMATE SCIENCE FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Climate Science Fund'' (referred to in this section as the ''Fund'').

(b) PURPOSES.—The purposes of the Fund shall be—

(1) to support focused research initiatives directed toward the assimilation of climate monitoring observations into research and operational models for climate, weather, and ecosystems;

(2) to expand global data collection, monitoring, and analysis activities of the atmosphere, oceans, cryosphere, land cover and use, and terrestrial and freshwater ecosystems—

(A) to provide continuous, reliable, useable, and accessible information on—

(i) the state, change, and variability of the climate system; and

(ii) the response of the biosphere; and

(B) for the purposes of—

(i) prediction of climate and weather, and the ecological response of those changes; and

(ii) the reduction of uncertainties in that prediction;

(3) to design, deploy, and maintain hydrologic and ecologic observing systems suitable for detecting climate change and the influence of climate change on water and natural resources;

(4) to strengthen global, regional, and local data collection and monitoring of greenhouse gas concentrations and aerosol concentrations—

(A) for the purpose of verifying greenhouse gas levels; and

(B) to reduce uncertainties associated with interannual variability in the global carbon cycle and the radiative influence of other atmospheric constituents in the forcing of climate change;

(5) to maintain and enhance regional and local ground observing networks for the purposes of—

(A) developing and maintaining long-term climate records;

(B) climate monitoring; and

(C) predicting climate and weather patterns;

(6) to strengthen intergovernmental coordination for environmental data acquisition, archiving, and dissemination;

(7) to improve the use of climate information for decisionmaking through an integrated program of research and assessment that—

(A) transitions research to operations and operational production; and

(B) delivers local and regional climate services that can be used to enhance adaptive management options;

(8) to support emerging climate science research priorities identified by the Committee on Environment and Natural Resources; and

(9) to increase funding for—

(A) climate and ocean observing systems;

(B) ground-based terrestrial and freshwater aquatic long-term monitoring systems;

(C) atmospheric and deposition monitoring networks;

(D) data quality control, storage, and access; and

(E) climate and environmental modeling workforce development.

(c) SUBMISSION OF GLOBAL CHANGE RESEARCH PROGRAM BUDGET REQUIREMENTS TO ADMINISTRATOR.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the National Science and Technology Council, in consultation with the Committee on Environment and Natural Resources, shall submit to the Administrator the budget requirements for global change research in the United States for each fiscal year.

(d) DEPOSITS IN FUND.—Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall—

(1) auction a quantity of the emission allowances established for that calendar year pursuant to section 201(a) sufficient to generate proceeds equal to the amount specified in the budget submitted for the applicable fiscal year under subsection (c); and

(2) deposit those proceeds in the Fund.

(e) USE OF FUNDS.—Notwithstanding section 3302 of title 31, United States Code, the proceeds of auctions under this section shall—

(1) be credited as offsetting collections to carry out the United States Global Change Research Program;

(2) be available for expenditure only to pay the costs of carrying out the United States Global Change Research Program;

(3) be available only to the extent provided in advance in an appropriations Act; and

(4) remain available until expended.

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**SA 4937.** Mr. CARDIN (for himself, Mr. CARPER, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, line 13, insert ''(including any designated recipient (as defined in section 5307(a) of title 49, United States Code) and any recipient or subrecipient (as defined in section 5311(a) of title 49, United States Code))'' after ''grants to entities''.

On page 41, line 15, strike ''commercial''.

On page 41, line 16, strike ''efficiency of those commercial'' and insert ''efficiency and direct and indirect greenhouse gas emissions of those''.

On page 41, line 20, strike ''commercial''.

On page 42, line 7, strike ''efficiency of a commercial'' and insert ''efficiency and direct and indirect greenhouse gas emissions of a''.

On page 42, line 14, strike ''commercial''.

On page 42, line 22, strike ''commercial''.

On page 330, line 11, strike ''commercial''.

On page 331, lines 5 and 6, strike ''commercial''.

On page 331, line 7, insert ''and direct and indirect greenhouse gas emissions'' after ''efficiency''.

On page 331, line 10, strike ''commercial''.

On page 331, line 18, insert ''and reductions of direct and indirect greenhouse gas emissions'' after ''efficiency''.

On page 331, line 23, strike ''commercial''.

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**SA 4938.** Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 611, and insert the following:

**SEC. 611. PUBLIC TRANSPORTATION AND TRANSPORTATION ALTERNATIVES.**

(a) TRANSPORTATION SECTOR EMISSION REDUCTION FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Transportation Sector Emission Reduction Fund''.

(b) AUCTION OF ALLOWANCES.—In accordance with subsections (c) and (d), to fund awards for transportation alternatives including public transportation and related activities, for each of calendar years 2012 through 2050, the Administrator shall auction a quantity of the emission allowances established pursuant to section 201(a) for each calendar year.

(c) NUMBER; FREQUENCY.—For each calendar year during the period described in subsection (b), the Administrator shall—

(1) conduct not fewer than 4 auctions; and

(2) schedule the auctions in a manner to ensure that—

(A) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(B) the interval between each auction is of equal duration.

(d) QUANTITIES OF EMISSION ALLOWANCES AUCTIONED.—For each calendar year of the period described in subsection (b), the Administrator shall auction a quantity of emission allowances in accordance with the applicable percentages described in the following table:

| Calendar Year | Percentage for auction for public transportation and transportation alternatives |
|---|---|
| 2012 | 1 |
| 2013 | 1 |
| 2014 | 1 |
| 2015 | 1 |
| 2016 | 1 |
| 2017 | 1 |
| 2018 | 2 |
| 2019 | 2 |
| 2020 | 2 |
| 2021 | 2 |
| 2022 | 2.75 |
| 2023 | 2.75 |
| 2024 | 2.75 |
| 2025 | 2.75 |
| 2026 | 2.75 |
| 2027 | 2.75 |
| 2028 | 2.75 |
| 2029 | 2.75 |
| 2030 | 2.75 |

| Calendar Year | Percentage for auction for public transportation and transportation alternatives |
|---|---|
| 2031 | 2.75 |
| 2032 | 2.75 |
| 2033 | 2.75 |
| 2034 | 2.75 |
| 2035 | 2.75 |
| 2036 | 2.75 |
| 2037 | 2.75 |
| 2038 | 2.75 |
| 2039 | 2.75 |
| 2040 | 2.75 |
| 2041 | 2.75 |
| 2042 | 2.75 |
| 2043 | 2.75 |
| 2044 | 2.75 |
| 2045 | 2.75 |
| 2046 | 2.75 |
| 2047 | 2.75 |
| 2048 | 2.75 |
| 2049 | 2.75 |
| 2050 | 2.75 |

(e) DEPOSITS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to subsections (b) and (c), immediately on receipt of those proceeds, in the Transportation Sector Emission Reduction Fund established by subsection (a).

(f) USE OF FUNDS.—For each of calendar years 2012 through 2050, all funds deposited in the Transportation Sector Emission Reduction Fund in the preceding year pursuant to subsection (e) shall be made available, without further appropriation or fiscal year limitation, for grants described in subsections (g) through (i).

(g) GRANTS TO PROVIDE FOR ADDITIONAL AND IMPROVED PUBLIC TRANSPORTATION SERVICE.—

(1) IN GENERAL.—Of the funds deposited in the Transportation Sector Emission Reduction Fund each year pursuant to subsection (e), 65 percent shall be distributed to designated recipients (as defined in section 5307(a) of title 49, United States Code) to maintain or improve public transportation and associated measures through activities eligible under that section, including—

(A) planning activities;

(B) transit enhancements, including pedestrian and bicycle infrastructure;

(C) improvements to lighting, heating, cooling, or ventilation systems in stations and other facilities that reduce direct or indirect greenhouse gas emissions;

(D) adjustments to signal timing or other vehicle controlling systems that reduce direct or indirect greenhouse gas emissions;

(E) purchasing or retrofitting rolling stock to improve efficiency or reduce greenhouse gas emissions; and

(F) improvements to energy distribution systems.

(2) DISTRIBUTION.—Of the proceeds of auctions conducted under this section, the Administrator shall distribute under paragraph (1)—

(A) 60 percent in accordance with the formulas contained in subsections (a) through (c) of section 5336 of title 49, United States Code; and

(B) 40 percent in accordance with the formula contained in section 5340 of that title.

(3) TERMS AND CONDITIONS.—A grant provided under this subsection shall be to reduce direct or indirect greenhouse gas emissions and be subject to the terms and conditions applicable to a grant provided under section 5307 of title 49, United States Code.

(4) COST SHARE.—The Federal share of cost of carrying out an activity using a grant under this subsection shall be determined in accordance with section 5307(e) of title 49, United States Code.

(h) GRANTS FOR CONSTRUCTION OF NEW PUBLIC TRANSPORTATION PROJECTS.—

(1) IN GENERAL.—Of the funds deposited in the Transportation Sector Emission Reduction Fund each year pursuant to subsection (e), 30 percent shall be distributed to State and local government authorities, for design, engineering, and construction of new fixed guideway transit projects or extensions to existing fixed guideway transit systems.

(2) APPLICATIONS.—Applications for grants under this subsection shall be reviewed according to the process and criteria established under section 5309(c) of title 49, United States Code, for major capital investments and section 5309(d) of title 49, United States Code for other projects.

(3) TERMS AND CONDITIONS.—Grant funds awarded under this subsection shall be subject to the terms and conditions applicable to a grant made under section 5309 of title 49, United States Code.

(i) GRANTS FOR TRANSPORTATION ALTERNATIVES AND TRAVEL DEMAND REDUCTION PROJECTS.—

(1) IN GENERAL.—Of the funds deposited into the Transportation Sector Emission Reduction Fund each year pursuant to subsection (e), 5 percent shall be awarded to designated recipients (as defined in section 5307(a) of title 49, United States Code) or State or local government authorities, including regional planning organizations and Metropolitan Planning Organizations, to assist in reducing the direct and indirect greenhouse gas emissions of the systems of the regional transportation sector, through—

(A) programs to reduce vehicle miles traveled;

(B) bicycle and pedestrian infrastructure, including trail networks integrated with transportation plans or bicycle mode-share targets;

(C) programs to establish or expand telecommuting or car pool projects that do not include new roadway capacity;

(D) transportation and land-use scenario analyses and stakeholder engagement to support development of integrated transportation plans; and

(E) improvements in travel and land-use data collection and in travel models to better measure greenhouse gas emissions and emissions reductions.

(2) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—In determining the recipients of grants under this subsection, applications shall be evaluated based on the total direct and indirect greenhouse gas emissions reductions that are projected to result from the project and projected reductions as a percentage of the total direct and indirect emissions of an entity using methods developed and promulgated by the Administrator, in concert with the Secretary of Transportation.

(B) METHODS.—The methods described in subparagraph (A) shall be promulgated not later than 24 months after the date of enactment of this Act.

(3) GOVERNMENT SHARE OF COSTS.—The Federal share of the cost of an activity funded using amounts made available under this subsection may not exceed 80 percent of the cost of the activity.

(4) TERMS AND CONDITIONS.—Except to the extent inconsistent with the terms of this subsection, grant funds awarded under this subsection shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code.

(j) CONDITION FOR RECEIPT OF FUNDS.—To be eligible to receive funds under this section, projects or activities must be part of an integrated State-wide, regional, or local transportation plan that shall—

(1) include all modes of surface transportation;

(2) utilize integrated transportation data collection, monitoring, planning, and modeling methods that consider land use and account for non-motorized and sub-zone trips;

(3) report every three years on estimated direct and indirect transportation sector greenhouse gas emissions;

(4) be designed to reduce greenhouse gas emissions from the transportation sector through setting specific reduction targets, managing motor vehicle usage; and

(5) be certified by the Administrator as consistent with the purposes of this Act.

(k) TRANSPORTATION SECTOR TECHNICAL CAPACITY AND STANDARDS.—

(1) STUDY.—Not later than 180 days after the date of enactment of this Act, to maximize greenhouse gas emission reductions from the transportation sector—

(A) the National Academy of Sciences Transportation Research Board shall submit to the Administrator and the Secretary of Transportation a report containing recommendations for improving research and tools to assess the effect of transportation plans and land use plans on motor vehicle usage rates and transportation sector greenhouse gas emissions; and

(B) the Comptroller General of the United States shall submit to the Administrator and the Secretary of Transportation a report describing any shortcomings of current government data sources necessary—

(i) to assess greenhouse gas emissions from the transportation sector; and

(ii) to establish plans and policies to effectively reduce greenhouse gas emissions from the transportation sector.

(2) TECHNICAL STANDARDS.—Not later than 2 years after the date of enactment of this Act, based on any recommendations contained in the reports submitted under paragraph (1), the Administrator and the Secretary of Transportation shall promulgate standards for transportation data collection, monitoring, planning, and modeling.

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**SA 4939.** Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 196, strike line 15 and all that follows through page 198, line 16.

Beginning on page 223, strike the table that follows line 11 and insert the following:

| Calendar Year | Percentage for auction for public transportation |
|---|---|
| 2012 | 3 |
| 2013 | 3 |
| 2014 | 3 |
| 2015 | 3 |
| 2016 | 3 |
| 2017 | 3 |
| 2018 | 3 |
| 2019 | 3 |
| 2020 | 3 |
| 2021 | 3 |
| 2022 | 3.75 |
| 2023 | 3.75 |
| 2024 | 3.75 |
| 2025 | 3.75 |
| 2026 | 3.75 |
| 2027 | 3.75 |
| 2028 | 3.75 |
| 2029 | 3.75 |
| 2030 | 3.75 |
| 2031 | 2.75 |
| 2032 | 2.75 |
| 2033 | 2.75 |
| 2034 | 2.75 |
| 2035 | 2.75 |
| 2036 | 2.75 |
| 2037 | 2.75 |
| 2038 | 2.75 |
| 2039 | 2.75 |
| 2040 | 2.75 |
| 2041 | 2.75 |
| 2042 | 2.75 |
| 2043 | 2.75 |
| 2044 | 2.75 |
| 2045 | 2.75 |
| 2046 | 2.75 |
| 2047 | 2.75 |
| 2048 | 2.75 |
| 2049 | 2.75 |
| 2050 | 2.75. |

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**SA 4940.** Mr. SMITH (for himself, Mr. WYDEN, Ms. CANTWELL, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 290, strike line 16 and all that follows through page 291, line 4 and insert the following:

(a) DEFINITIONS.—In this section:

(1) 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 use 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.—The term ''marine and hydrokinetic renewable energy'' does not include any energy that is derived from any source that uses a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.

(2) NONHYDROELECTRIC DAM.—

(A) IN GENERAL.—The term ''nonhydroelectric dam'' means any nonhydroelectric dam if—

(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements;

(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this Act and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this Act; and

(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

(B) CERTIFICATION.—The Federal Energy Regulatory Commission shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria described in subparagraph (A)(iii).

(C) EFFECT ON STANDARDS.—Nothing in this paragraph affects the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act (16 U.S.C. 792 et seq.).

(3) RENEWABLE-ENERGY SOURCE.—The term ''renewable-energy source'' means energy from 1 or more of the following sources:

(A) Solar energy.

(B) Wind.

(C) Geothermal energy.

(D) Hydropower (including incremental hydropower and nonhydroelectric dams).

(E) Biomass.

(F) Marine and hydrokinetic renewable energy.

(G) Landfill gas.

(H) Livestock methane.

(I) Fuel cells powered with a renewable-energy source.

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**SA 4941.** Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 6 and 7, insert the following:

**SEC. 530. ACTION UPON FAILURE OF EMERGENCY OFF-RAMPS TO PREVENT SIGNIFICANTLY HIGHER HOME HEATING BILLS CAUSED BY THIS ACT.**

(a) DEFINITIONS.—In this section:

(1) INTERAGENCY CONSULTATION.—The term ''interagency consultation'' means consultation with the Secretary of Health and Human Services and the Administrator.

(2) REGION OF THE COUNTRY.—The term ''region of the country'' means any of—

(A) the northeastern region of the United States, comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, and the District of Columbia;

(B) the midwestern region of the United States, comprised of the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin;

(C) the Great Plains region of the United States, comprised of the States of Kansas, Nebraska, North Dakota, Oklahoma, and South Dakota;

(D) the southern region of the United States, comprised of the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia;

(E) the mountain west region of the United States, comprised of the States of Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming; and

(F) the western region of the United States, comprised of the States of Alaska, California, Hawaii, Oregon, and Washington.

(b) ADMINISTRATOR ACTION.—Notwithstanding any other provision of this Act, upon a determination under subsection (c) of the failure of emergency off-ramp provisions under this subtitle to prevent significantly higher home heating bills caused by this Act, the Administrator shall suspend such provisions of this Act as the Administrator determines are necessary until implementation of the provisions no longer causes such a significant home heating bill increase.

(c) DETERMINATION OF SIGNIFICANTLY HIGHER HOME HEATING BILLS CAUSED BY THIS ACT.—Not less than annually, the Secretary of Energy, after interagency consultation, shall determine whether implementation of emergency off-ramp provisions under this subtitle have failed to prevent the implementation of this Act from causing the average retail price to households of natural gas or heating oil, nationwide or in any region of the country, to increase more than 20 percent since the date of enactment of this Act.

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**SA 4942.** Mr. BOND submitted an amendment intended to be proposed by

him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 6 and 7, insert the following:

**SEC. 530. ACTION UPON FAILURE OF EMERGENCY OFF-RAMPS TO PREVENT SIGNIFICANT MANUFACTURING JOB LOSS DUE TO HIGHER ELECTRICITY OR NATURAL GAS PRICES CAUSED BY THIS ACT.**

(a) DEFINITIONS.—In this section:

(1) INTERAGENCY CONSULTATION.—The term ''interagency consultation'' means consultation with the Secretary of Energy and the Administrator.

(2) REGION OF THE COUNTRY.—The term ''region of the country'' means any of—

(A) the northeastern region of the United States, comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, and the District of Columbia;

(B) the midwestern region of the United States, comprised of the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin;

(C) the Great Plains region of the United States, comprised of the States of Kansas, Nebraska, North Dakota, Oklahoma, and South Dakota;

(D) the southern region of the United States, comprised of the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia;

(E) the mountain west region of the United States, comprised of the States of Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming; and

(F) the western region of the United States, comprised of the States of Alaska, California, Hawaii, Oregon, and Washington.

(b) ADMINISTRATOR ACTION.—Notwithstanding any other provision of this Act, upon a determination under subsection (c) of the failure of emergency off-ramp provisions under this subtitle to prevent significant manufacturing job loss caused by this Act, the Administrator shall suspend such provisions of this Act as the Administrator determines are necessary until implementation of the provisions no longer causes such a significant manufacturing job loss.

(c) DETERMINATION OF SIGNIFICANT MANUFACTURING JOB LOSS CAUSED BY THIS ACT.—Not less than annually, the Secretary of Labor, after interagency consultation, shall determine whether implementation of emergency off-ramp provisions under this subtitle have failed to prevent the implementation of this Act from causing, since the date of enactment of this Act, the loss of more than 10,000 manufacturing-related jobs nationwide or 5,000 manufacturing-related jobs in any region of the country in electricity or natural gas intensive sectors, including auto assembly, metal casting, or production of cement, steel, aluminum, paper, plastics, chemicals, or fertilizer.

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**SA 4943.** Mr. BOND (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—CLEAN ENERGY SOLUTIONS RESEARCH, DEVELOPMENT, AND DEPLOYMENT**

**SEC. 1801. DEFINITIONS.**

In this title:

(1) ADVANCED BIOFUEL.—The term ''advanced biofuel'' has the meaning given the term in section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)).

(2) ADVANCED VEHICLE BATTERY.—The term ''advanced vehicle battery'' means an electrochemical energy storage system powered directly by electrical current that provides motive power to an electric vehicle, hybrid electric vehicle, or plug-in hybrid electric vehicle.

(3) ELECTRIC VEHICLE.—The term ''electric vehicle'' means an on-road light-duty or nonroad vehicle that uses an advanced vehicle battery or a fuel cell (as defined in section 803 of the Spark M. Matsunaga Hydrogen Act of 2005 (42 U.S.C. 16152)).

(4) HYBRID ELECTRIC VEHICLE.—The term ''hybrid electric vehicle'' means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of the Internal Revenue Code of 1986).

(5) IGCC.—The term ''IGCC'' means integrated coal gasification combined cycle.

(6) PLUG-IN HYBRID ELECTRIC VEHICLE.—The term ''plug-in hybrid electric vehicle'' means a hybrid electric vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

(7) RENEWABLE FUEL.—The term ''renewable fuel'' means any fuel—

(A) at least 85 percent of the volume of which consists of ethanol or advanced biofuel; or

(B) any mixture of biodiesel and diesel or renewable diesel (as defined in regulations adopted pursuant to section 211(o) of the Clean Air Act (part 80 of title 40 Code of Federal Regulations (as in effect on the date of enactment of this Act))), determined without regard to any use of kerosene and containing at least 20 percent biodiesel or renewable diesel.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

**SEC. 1802. COORDINATION WITH EXISTING PROGRAMS.**

In carrying out this title, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall take into consideration the ongoing research, development, demonstration, and deployment activities associated with this title to avoid duplication of the ongoing activities while expanding and accelerating activities as required by this title.

**SEC. 1803. PROGRESS REPORT.**

Not later than 1 year after the date of enactment of this Act and every 2 calendar years thereafter, the Secretary shall submit to each committee of Congress with jurisdiction over greenhouse gas emissions and global climate change a report and detailed analysis of the status of implementation of this title with an emphasis on the widespread commercial availability, affordability, and maintenance of products that use the technologies and activities advanced under this title.

**Subtitle A—Reduced Carbon Emissions Through Clean Vehicles**

**SEC. 1811. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions from fossil-based transportation fuel usage by aggressively promoting advanced vehicle battery technology and domestic manufacturing capability necessary for widespread commercial viability of hybrid electric vehicles, plug-in hybrid electric vehicles, and electric vehicles.

**SEC. 1812. ADVANCED VEHICLE BATTERY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall—

(1) expand and accelerate research and development efforts for advanced vehicle batteries; and

(2) emphasize lower cost enablers for abuse-tolerant batteries with the appropriate balance of power and energy capacity to meet market requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1813. DOMESTIC ADVANCED VEHICLE BATTERY MANUFACTURING PROCESS IMPROVEMENTS.**

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to improve domestic manufacturing equipment and assembly process capabilities for advanced vehicle batteries and components that—

(1) reduce manufacturing time;

(2) reduce manufacturing energy intensity;

(3) reduce negative environmental impact or byproducts; or

(4) increase spent battery or component recycling.

(b) INCLUSION.—The Secretary shall include in the program established under subsection (a) grants to support the development and deployment of domestic high-speed, automated, production-scale advanced vehicle battery and component manufacturing equipment.

(c) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1814. DOMESTIC ADVANCED VEHICLE BATTERY MANUFACTURING SUPPLY BASE EXPANSION.**

(a) IN GENERAL.—The Secretary shall establish a program to provide grants to expand the domestic manufacturing supply base for advanced vehicle batteries and components with a particular emphasis on facilities that manufacture or assemble—

(1) cell materials, including—

(A) substrates and active materials for electrodes;

(B) carbonaceous and graphite additives;

(C) separators;

(D) electrolytes; and

(E) roll stock aluminum and copper; and

(2) system components, including—

(A) power electronics;

(B) drivetrain electromechanical devices;

(C) a secure supply of raw battery materials; and

(D) battery management systems, including software development.

(b) COST SHARING.—The Secretary shall require that not less than 20 percent of the cost of a project funded by a grant under this section be provided by a non-Federal source.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $650,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1815. OPERATING PLAN.**

Not later than 120 days after the date of enactment of this Act and with the submission of the budget of the United States Government by the President under section 1105

of title 31, United States Code, for each fiscal year thereafter, the Secretary shall submit to the appropriate authorizing and appropriations committees of Congress an operating plan for spending the full amount of funds authorized for sections 1812, 1813, and 1814.

**Subtitle B—Reduced Carbon Emissions Through Renewable and Hydrogen Fuel Infrastructure Expansion**

**SEC. 1821. STATEMENT OF POLICY.**

It is the policy of the United States to reduce emissions from fossil-based transportation fuel use by aggressively deploying renewable fuel infrastructure to achieve the widespread use of renewable fuels.

**SEC. 1822. EXPANDED RENEWABLE FUEL INFRASTRUCTURE GRANTS.**

(a) INFRASTRUCTURE DEVELOPMENT GRANTS.—The Secretary shall expand and accelerate the program for making grants for providing assistance to retail and wholesale motor fuel dealers or other entities for the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure to be used exclusively to store and dispense renewable fuel.

(b) LIMITATIONS.—Assistance provided under this section shall not exceed the greater of—

(1) 50 percent of the estimated cost of the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure; or

(2) $50,000 for a combination of equipment at any 1 retail outlet location.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1823. HYDROGEN FUELING PUMPS.**

(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a program under which the Secretary of Transportation shall provide grants with the goal of establishing, by calendar year 2013, at least 100 publicly available hydrogen fueling pumps at retail gas stations in at least 2 selected regions.

(b) REQUIRED CONTRIBUTION.—As a condition of receiving a grant under subsection (a) for a hydrogen fueling pump, the owner or operator of a service station shall be required to contribute, or obtain funding from a State or local government entity for, at least 10 percent of the cost of the hydrogen fueling pump.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation to carry out this section $85,000,000 for each of fiscal years 2009 through 2013.

**SEC. 1824. FEDERAL ACQUISITION OF HYDROGEN FUEL CELL VEHICLES.**

There is authorized to be appropriated to the Administrator of General Services for the acquisition of hydrogen fuel cell vehicles for use by Federal agencies $85,000,000 for each of fiscal years 2012 through 2014.

**Subtitle C—Reduced Carbon Emissions Through Electricity Transmission and Management Efficiency**

**SEC. 1831. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions from electric power production through electricity transmission, distribution, and management efficiency gains.

**SEC. 1832. ELECTRICITY TRANSMISSION, DISTRIBUTION, AND MANAGEMENT EFFICIENCY RESEARCH AND DEVELOPMENT.**

(a) SUPERCONDUCTING TRANSMISSION.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall expand and accelerate efforts to conduct research and develop high-temperature superconducting power equipment that, in comparison to conventional copper wires—

(A) increases electricity carrying capacity;

(B) increases fault current limiting and overload protection;

(C) reduces energy loss due to electrical resistance;

(D) reduces equipment footprints; or

(E) reduces environmental impacts.

(2) REQUIRED EFFORTS.—In expanding and accelerating efforts described in paragraph (1), the Secretary shall include efforts to improve—

(A) the nanoscale engineering of high-temperature superconducting wire;

(B) the production of high-temperature superconducting wire in long lengths in a cost-effective manner;

(C) the coating and preparation of underlying high-temperature superconducting wire metal substrate;

(D) the joining of high-temperature superconducting conductors to normal conductors; and

(E) the minimization of electrical loss due to alternating currents.

(b) TRANSFORMERS.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall expand and accelerate efforts to conduct research and develop efficiency improvements in electricity distribution transformers.

(2) REQUIRED EFFORTS.—In expanding and accelerating efforts described in paragraph (1), the Secretary shall include efforts—

(A) to improve initial and life-cycle costs;

(B) to improve utilization; and

(C) to make metallurgical advances in transformer components.

(c) GRID COMMUNICATION.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall expand and accelerate efforts to conduct research and develop cost-effective improvements in grid communication technology.

(2) REQUIRED COMPONENTS.—In expanding and accelerating efforts described in paragraph (1), the Secretary shall include efforts to research and develop—

(A) remote sensors (including nanosensors) to be used in the electrical grid to enable the timely control, identification, and correction of temperature, faults, and other adverse online effects;

(B) smart meters that have the capability to be used to carry out real-time data acquisition and dynamic energy management;

(C) grid management, distribution, and operation systems; and

(D) interoperability standards to ensure the integration of smart grid sensor, meter, and management systems.

(d) END-USE TECHNOLOGIES.—The Secretary shall expand and accelerate efforts to conduct research and develop consumer technologies to reduce electricity usage, with a particular emphasis on smart thermostats that enable consumers to change energy usage based on—

(1) the time of day;

(2) peak energy usage times; or

(3) any other information made available through grid communication technology.

(e) OPERATING PLAN.—Not later than 120 days after the date of enactment of this Act and with the submission of the budget of the United States Government by the President under section 1105 of title 31, United States Code, for each fiscal year thereafter, the Secretary shall submit to the appropriate authorizing and appropriations committees of Congress an operating plan for spending the full amount of funds made available for this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1833. ELECTRICITY TRANSMISSION, DISTRIBUTION, AND MANAGEMENT EFFICIENCY TECHNOLOGY DEPLOYMENT.**

(a) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall provide grants for the deployment of electricity transmission, distribution, and management efficiency technologies.

(b) PRIORITY.—In providing grants under this section, the Secretary shall give priority to applications with proposed projects that—

(1) reduce congestion in transmission corridors; or

(2) relieve demand for electricity generation growth in areas with inadequate access to—

(A) renewable energy sources; or

(B) low-carbon fuel sources.

(c) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any grant made by the Secretary in carrying out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $450,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1834. STATE CONSIDERATION OF HIGH-TEMPERATURE SUPERCONDUCTIVITY POWER EQUIPMENT.**

Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as amended by sections 532(a) and 1307(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1665, 1791)) is amended—

(1) by redesignating paragraphs (16) and (17) (as added by section 1307(a) of that Act) as paragraphs (18) and (19), respectively; and

(2) by adding at the end the following:

''(20) RECOVERY OF COSTS RELATING TO DEPLOYMENT OF POWER EQUIPMENT.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any costs of the electric utility relating to the deployment of high-temperature superconductivity power equipment.''.

**Subtitle D—Reduced Carbon Emissions Through Residential and Commercial Energy Efficiency**

**SEC. 1841. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions from electric power production through more efficient residential and commercial energy using technologies.

**SEC. 1842. RESIDENTIAL AND COMMERCIAL ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall expand and accelerate efforts to conduct research and develop methods—

(1) to reduce installation costs of geothermal heat pumps for new and existing residences and businesses;

(2) to improve the widespread availability and reliability of high-efficiency heat pump water heaters;

(3) to advance the efficiency and cost-effectiveness of fluorescent, high-intensity discharge, and light-emitting diode lamps; and

(4) to improve small-scale battery and energy storage technologies.

(b) OPERATING PLAN.—Not later than 120 days after the date of enactment of this Act and with the submission of the budget of the United States Government by the President under section 1105 of title 31, United States Code, for each fiscal year thereafter, the Secretary shall submit to the appropriate authorizing and appropriations committees of Congress an operating plan for spending the full amount of funds made available for this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2010 through 2014.

**Subtitle E—Reduced Carbon Emissions Through Increased Renewable Energy Storage**

**SEC. 1851. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions through the increased ability to store energy generated from renewable energy sources.

**SEC. 1852. RENEWABLE ENERGY STORAGE RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall expand and accelerate efforts to conduct research and develop large megawatt level and smaller distributed electricity storage systems—

(1) to reduce electricity transmission congestion;

(2) to manage peak loads;

(3) to make renewable electricity sources more dispatchable; and

(4) to increase the reliability of the electric grid.

(b) OPERATING PLAN.—Not later than 120 days after the date of enactment of this Act and with the submission of the budget of the United States Government by the President under section 1105 of title 31, United States Code, for each fiscal year thereafter, the Secretary shall submit to the appropriate authorizing and appropriations committees of Congress an operating plan for spending the full amount of funds authorized for this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1853. RENEWABLE ENERGY STORAGE DEPLOYMENT.**

(a) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall provide grants for the deployment of large megawatt level and smaller distributed electricity storage systems.

(b) PRIORITY.—In providing grants under this section, the Secretary shall give priority, in descending order of importance, to applications with proposed projects that—

(1) make renewable electricity sources more dispatchable;

(2) reduce electricity transmission congestion;

(3) increase the reliability of the electric grid; or

(4) manage peak loads.

(c) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to any grant made under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 for each of fiscal years 2010 through 2014.

**SEC. 1854. STATE CONSIDERATION OF ENERGY STORAGE FOR ELECTRIC POWER.**

Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as amended by section 1834) is amended by adding at the end the following:

''(21) RECOVERY OF COSTS RELATING TO DEPLOYMENT OF STORAGE SYSTEMS.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any costs of the electric utility relating to the deployment of energy storage systems for electric power.''.

**Subtitle F—Reduced Carbon Emissions Through Clean Coal Technologies**

**SEC. 1861. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions from technology improvements to coal-fired power plants that will reduce the quantity of coal burned and carbon dioxide emitted per unit of power produced.

**SEC. 1862. CLEAN COAL RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall expand and accelerate efforts to conduct research and develop technologies that reduce carbon dioxide emissions from coal-fired facilities with an emphasis on commercial viability and reliability.

(b) SHORT-, MEDIUM- AND LONG-TERM TECHNOLOGY AREAS.—The Secretary shall emphasize technologies that reduce carbon dioxide emissions in the short-, medium-, and long-term time frames, including—

(1) innovations for existing power plants that reduce carbon dioxide emissions by energy efficiency increases or by capturing carbon emissions, including technologies that—

(A) reduce the quantity of fuel combusted per unit of electricity output;

(B) reduce parasitic power loss from carbon control technology;

(C) improve compression of the separated and captured carbon dioxide;

(D) reuse or reduce water consumption and withdrawal; and

(E) capture carbon dioxide post-combustion from flue gas, such as through the use of ammonia-based, aqueous amine or ionic liquid solutions or other methods;

(2) new combustion systems, including—

(A) oxyfuel combustion that burns fuel in the presence of oxygen and recirculated flue gas instead of air producing a concentrated stream of carbon dioxide that can be readily captured for storage or use;

(B) chemical looping combustion that burns fuel in the presence of a solid oxygen carrier instead of air producing concentrated stream of carbon dioxide that can be readily captured for storage or use;

(C) high-temperature and pressure steam systems, such as ultra supercritical steam generation, that result in high net plant efficiency and reduced fuel consumption, thus producing less carbon dioxide per unit of energy;

(D) other innovative carbon dioxide control technologies appropriate for new combustion systems; and

(E) high temperature and high pressure materials that will result in much higher plant efficiencies and carbon dioxide emission reductions;

(3) innovations for IGCC systems that build on the ability of the IGCC to separate pollutants and carbon emissions from gas streams, including—

(A) advanced membrane technology for carbon dioxide separation;

(B) improved air separation systems;

(C) improved compression for the separated and captured carbon dioxide; and

(D) other innovative carbon dioxide control technologies appropriate for IGCC systems;

(4) advanced combustion turbines, including—

(A) ultra low emission hydrogen turbines; and

(B) oxycoal combustion turbines; and

(5) sequestration of captured carbon in geological formations, including—

(A) plume tracking;

(B) carbon dioxide leak detection and mitigation;

(C) carbon dioxide fate and transport models; and

(D) site evaluation instrumentation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) for innovations at power plants in operation as of the date of enactment of this Act $450,000,000 for the period of fiscal years 2009 through 2020;

(2) for new combustion systems $450,000,000 for the period of fiscal years 2009 through 2025;

(3) for IGCC systems $850,000,000 for the period of fiscal years 2009 through 2025;

(4) for advanced combustion turbines $350,000,000 for the period of fiscal years 2009 through 2025;

(5) for carbon storage $400,000,000 for the period of fiscal years 2009 through 2020.

**SEC. 1863. CLEAN COAL DEMONSTRATION.**

(a) IN GENERAL.—The Secretary shall expand and accelerate the demonstration of technologies that reduce carbon dioxide emissions from coal-fired facilities by demonstrating, at a minimum—

(1) through facilities in operation as of the date of enactment of this Act—

(A) post-combustion carbon dioxide capture at pilot scale at not less than 2 facilities, the award of contracts for which shall be completed by 2010;

(B) oxycoal combustion at commercial scale retrofitted to not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) post-combustion carbon dioxide capture at commercial scale retrofitted to not less than 1 facility, the award of contracts for which shall be completed by 2012;

(D) heat rate and efficiency improvements at commercial scale at not less than 2 facilities, the award of contracts for which shall be completed by 2012; and

(E) water consumption reduction at commercial scale at not less than 2 facilities, the award of contracts for which shall be completed by 2012;

(F) post-combustion carbon dioxide capture at pilot scale with technologies other than technologies demonstrated under subparagraphs (A) and (C) at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(G) heat rate and efficiency improvements at commercial scale at not less than 3 facilities, the award of contracts for which shall be completed by 2014;

(H) water consumption reduction at commercial scale at not less than 3 facilities, the award of contracts for which shall be completed by 2014; and

(I) post-combustion carbon dioxide capture at pilot scale with technologies other than technologies demonstrated under subparagraphs (A), (C), and (F) at not less than 1 facility, the award of contracts for which shall be completed by 2016;

(2) through new coal combustion facilities that include carbon capture—

(A) oxycoal combustion at pilot scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) post-combustion carbon dioxide capture at pilot scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) oxycoal combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(D) supercritical pulverized coal combustion with advanced emission controls and partial carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(E) oxycoal supercritical circulating fluidized bed combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(F) post-combustion carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(G) post-combustion carbon dioxide capture at pilot scale with technologies other than technologies demonstrated under subparagraphs (B) or (F) at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(H) ultra supercritical (1290°F) pulverized coal combustion with near-zero emission

controls and 90 percent carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(I) oxycoal combustion with an advanced oxygen separation system at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2016;

(J) second generation post-combustion carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(K) chemical looping combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2018; and

(L) ultra advanced supercritical (1400°F) combustion with near-zero emission controls and 90 percent integrated carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2018;

(3) through IGCC with carbon capture—

(A) partial carbon dioxide capture without a water gas shift system at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) using G class turbine at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2012;

(C) using H class turbines at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2014; and

(D) using H class turbines at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2016.

(4) through advanced turbines using—

(A) monitoring systems for advanced IGCC gas turbine at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) advanced oxygen separation of at least 2,000 tons per day in size integrated with a combustion turbine at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) an oxyfuel turbine of at least 50 megawatts in generating capacity, at not less than 1 facility, the award of contracts for which shall be completed by 2015;

(D) advanced oxygen separation of at least 2,000 tons per day in size integrated with a gas turbine at not less than 1 facility, the award of contracts for which shall be completed by 2015; and

(E) an oxyfuel turbine of at least 400 megawatts in generating capacity, at not less than 1 facility, the award of contracts for which shall be completed by 2020; and

(5) for storage of carbon dioxide captured through—

(A) a field test of sequestration of at least 1,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2010;

(B) field tests of sequestration of at least 2,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2012; and

(C) a field test of sequestration of at least 1,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2014.

(b) SEQUESTRATION OF CAPTURED CARBON DIOXIDE.—In any demonstration referred to in subsection (a) that demonstrates carbon dioxide capture, the carbon dioxide capture shall be used for enhanced oil recovery, sequestered in geologically appropriate formations, or permanently sequestered or reused, with funds made available to carry out each such demonstration for the respective purpose of the demonstration.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) for demonstrations through facilities in operation as of the date of enactment of this Act $850,000,000 for the period of fiscal years 2009 through 2025;

(2) for new combustion systems $1,950,000,000 for the period of fiscal years 2009 through 2025;

(3) for IGCC systems $2,950,000,000 for the period of fiscal years 2009 through 2025;

(4) for advanced combustion turbines $400,000,000 for the period of fiscal years 2009 through 2025; and

(5) for carbon storage $1,350,000,000 for the period of fiscal years 2009 through 2020.

**SEC. 1864. IDENTIFICATION OF CLEAN COAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—The Secretary shall take such steps as are necessary to carry out this subtitle.

(b) PUBLIC COMMENT.—Not later than 90 days after the date of enactment of this Act and every 2 years thereafter, the Secretary shall institute a public comment period of at least 45 days to assist the determination of the specific research, development, and demonstration projects required under this subtitle.

(c) APPLICATIONS.—Not later than 120 days after the end of each public comment period required under subsection (b), the Secretary shall—

(1) publicly identify the specific types of projects that the Secretary intends to pursue to carry out this subtitle;

(2) establish selection criteria for the specific types of projects identified under paragraph (1); and

(3) establish an application process that allows persons that are interested in participating in projects identified under paragraph (1) to provide such information as the Secretary determines to be necessary.

On page 310, lines 1 through 3, strike ''part C of the Safe Drinking Water Act (42 U.S.C. 300h et seq.)'' and insert ''subtitle C of title X''.

Beginning on page 318, strike line 6 and all that follows through page 320, line 7, and insert the following:

**SEC. 1021. CARBON SEQUESTRATION AND CAPTURE.**

(a) DEFINITIONS.—In this section:

(1) ANTHROPOGENIC.—The term ''anthropogenic'' means produced or caused by human activity.

(2) CARBON DIOXIDE.—The term ''carbon dioxide'' means anthropogenically sourced carbon dioxide that is of sufficient purity and quality as to not compromise the safety and efficiency of any reservoir in which the carbon dioxide is stored.

(3) FEDERAL AGENCY.—The term ''Federal agency'' means any department, agency, or instrumentality of the United States.

(4) GEOLOGICAL STORAGE.—The term ''geological storage'' means permanent or short-term underground storage of carbon dioxide in a reservoir.

(5) PERSON.—

(A) IN GENERAL.—The term ''person'' means an individual, corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(B) INCLUSIONS.—The term ''person'' includes an officer, employee, and agent of any corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(6) RESERVOIR.—

(A) IN GENERAL.—The term ''reservoir'' means any subsurface sedimentary stratum, formation, aquifer, or cavity or void (whether natural or artificially created) that is suitable for, or capable of being made suitable for, the injection and storage of carbon dioxide.

(B) INCLUSIONS.—The term ''reservoir'' includes—

(i) an oil and gas reservoir;

(ii) a saline formation or coal seam; and

(iii) the seabed and subsoil of a submarine area.

(7) STATE.—

(A) IN GENERAL.—The term ''State'' means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands;

(vii) the Federated States of Micronesia;

(viii) the Republic of the Marshall Islands;

(ix) the Republic of Palau; and

(x) the United States Virgin Islands.

(B) INCLUSIONS.—The term ''State'' includes all territorial water, seabed, and subsoil of submarine areas of each State.

(8) STATE REGULATORY AGENCY.—The term ''State regulatory agency'' means the agency designated by the Governor of a State to administer a carbon dioxide storage program of the State.

(9) STORAGE FACILITY.—

(A) IN GENERAL.—The term ''storage facility'' means—

(i) an underground reservoir, underground equipment, and surface structures and equipment used in an operation to store carbon dioxide in a reservoir; and

(ii) any other facilities that the Administrator may include by regulation or permit.

(B) EXCLUSIONS.—The term ''storage facility'' does not include pipelines used to transport the carbon dioxide from 1 or more capture facilities to the storage and injection site.

(10) STORAGE OPERATOR.—The term ''storage operator'' means any person or other entity authorized by the Administrator or State regulatory agency to operate a storage facility.

(11) UNDERGROUND RESERVOIR.—The term ''underground reservoir'', with respect to a storage facility, includes any necessary and reasonable areal buffer and subsurface monitoring zones that are—

(A) designated by the Administrator or State regulatory agency for the purpose of ensuring the safe and efficient operation of the storage facility for the storage of carbon dioxide; and

(B) selected to protect against pollution, invasion, and escape or migration of the stored carbon dioxide.

(b) STATE CARBON DIOXIDE GEOLOGICAL STORAGE PROGRAMS.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Administrator shall—

(i) not later than 180 days after the date of enactment of this Act, publish in the Federal Register proposed regulations for State carbon dioxide storage programs; and

(ii) not later than 180 days after the date of publication of the proposed regulations under clause (i), promulgate final regulations for State carbon dioxide storage programs that meet the requirements described in paragraph (2)(A), including such modifications as the Administrator determines to be appropriate.

(B) UPDATING.—The Administrator may periodically review and, as necessary, revise the regulations promulgated under this subsection.

(2) STATE REGULATORY AUTHORITY.—

(A) IN GENERAL.—The regulations promulgated under paragraph (1)(A)(ii) shall establish minimum requirements that States shall meet in order to be approved to administer a carbon dioxide storage program under subsection (c)(1), including—

(i) a prohibition on carbon dioxide storage in the State that is not authorized by a permit issued by the State;

(ii) inspection, monitoring, recordkeeping, and reporting requirements; and

(iii) authority for the State regulatory agency to issue a permit, after public notice and hearing, approving a storage facility for the proposed geological storage of carbon dioxide if the State regulatory authority determines that—

(I) the horizontal and vertical boundaries of the geological storage facility designated by the permit are appropriate for the storage facility;

(II) the storage facility and reservoir are suitable and feasible for the injection and storage of carbon dioxide;

(III) a good faith effort has been made to obtain the consent of a majority of the owners having property interests affected by the storage facility, and that the storage operator intends to acquire any remaining interest by eminent domain or by a method otherwise allowed by law;

(IV) the use of the storage facility for the geological storage of carbon dioxide will not result in the unpermitted migration of carbon dioxide into other formations containing fresh drinking water or oil, gas, coal, or other commercial mineral deposits that are not owned by the storage operator; and

(V) the proposed storage would—

(aa) not unduly endanger human health or the environment; and

(bb) be in the public interest.

(B) STATE AUTHORITY.—A State regulatory agency approved under subsection (c)(1) to administer a carbon dioxide storage program shall issue such orders, permits, certificates, rules, and regulations, including establishment of such appropriate and sufficient financial sureties as are necessary, for the purpose of regulating the drilling, operation, and well plugging and abandonment and removal of surface buildings and equipment of the storage facility in order to protect the storage facility against pollution, invasion, and the escape or migration of carbon dioxide.

(C) EMINENT DOMAIN.—A storage operator may be empowered by a State to exercise the right of eminent domain under State law to acquire all surface and subsurface rights and interests necessary or useful for the purpose of operating the storage facility, including easements and rights-of-way across land that are necessary to transport carbon dioxide among components of the storage facility.

(D) VARIANCE IN CONDITIONS.—The regulations promulgated under paragraph (1)(A)(ii) shall permit or provide for consideration of varying geological, hydrological, and historical conditions in different States and in different areas within a State.

(E) ENHANCED RECOVERY OPERATIONS.—

(i) IN GENERAL.—Upon the approval of a State to administer a carbon dioxide storage program under subsection (c)(1), the State regulatory agency designated by the State may develop rules to allow the conversion into a storage facility of an enhanced recovery operation that is in existence as of the date on which administration of the program by the State is approved.

(ii) OIL AND GAS RECOVERY.—Nothing in this section applies to or otherwise affects the use of carbon dioxide as a part of or in conjunction with any enhanced recovery method the sole purpose of which is enhanced oil or gas recovery.

(c) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—

(1) APPROVAL OF STATE CARBON DIOXIDE STORAGE PROGRAMS.—

(A) APPLICATION.—

(i) IN GENERAL.—After promulgation of the regulations under subsection (b)(1)(A)(ii), each State may submit to the Administrator an application that demonstrates, to the satisfaction of the Administrator, that the State—

(I) has adopted, after providing for reasonable notice and an opportunity for public comment, and will implement, a carbon dioxide storage program that meets the requirements of the regulations; and

(II) will keep such records and make such reports with respect to the activities of the State under the carbon dioxide storage program as the Administrator may require by regulation.

(ii) REVISIONS.—Not later than the expiration of the 270-day period beginning on the date on which any regulation promulgated under subsection (b)(1)(A)(ii) is revised or amended with respect to a requirement applicable to State carbon dioxide storage programs, each State with a carbon dioxide storage program approved under subparagraph (B) shall submit, in such form and in such manner as the Administrator may require, a notice to the Administrator that demonstrates, to the satisfaction of the Administrator, that the State carbon dioxide storage program meets the revised or amended requirement.

(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date on which a State submits to the Administrator an application under subparagraph (A)(i) or a notice under subparagraph (A)(ii), and after a reasonable (as determined by the Administrator) opportunity for discussion, the Administrator shall by regulation approve, disapprove, or approve in part and disapprove in part, the carbon dioxide storage program proposed by the State.

(C) EFFECT OF APPROVAL.—If the Administrator approves the carbon dioxide storage program of a State under subparagraph (B), the State shall have primary enforcement responsibility for carbon dioxide storage in the State until such time as the Administrator determines, by regulation, that the State no longer meets the requirements of subparagraph (A)(i).

(D) PUBLIC PARTICIPATION.—Before making a determination under subparagraph (B) or (C), the Administrator shall provide an opportunity for a public hearing with respect to the determination.

(2) STATES WITHOUT PRIMARY ENFORCEMENT RESPONSIBILITY.—

(A) IN GENERAL.—If a State fails to submit an application under paragraph (1)(A)(i) by the date that is 270 days after the date of promulgation of regulations under subsection (b)(1)(A)(ii), the Administrator shall by regulation prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the terms and conditions of subsection (b)(2).

(B) DISAPPROVAL.—If the Administrator disapproves all or a portion of the program of a State under paragraph (1)(B), if the Administrator determines under paragraph (1)(C) that a State no longer meets the requirements of subclause (I) or (II) of paragraph (1)(A)(i), or if a State fails to submit a notice before the expiration of the period specified in paragraph (1)(A)(ii), the Administrator shall by regulation, not later than 90 days after the date of the disapproval, determination, or expiration (as the case may be), prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the requirements of subsection (b)(2).

(C) APPLICABILITY.—A program prescribed by the Administrator under subparagraph (B) shall apply in a State only to the extent that a program adopted by the State that the Administrator determines meets the requirements of this section or subsection (b)(2) is not in effect.

(D) PUBLIC PARTICIPATION.—Before promulgating any regulation under subparagraph (B) or (C), the Administrator shall provide an opportunity for a public hearing with respect to the regulation.

(d) ENFORCEMENT OF PROGRAM.—

(1) NOTIFICATION.—

(A) IN GENERAL.—In any case in which the Administrator determines, during a period during which a State has primary enforcement responsibility for carbon dioxide storage, that any person who is subject to a requirement of the carbon dioxide storage program is violating the requirement, the Administrator shall notify the State and the person violating the requirement of the violation.

(B) FAILURE TO ENFORCE.—If, after the date that is 30 days after the Administrator notifies a State of a violation under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall—

(i) issue an order under paragraph (2) requiring the person to—

(I) correct the matter; and

(II) comply with the requirement; or

(ii) bring a civil action in accordance with paragraph (3).

(C) VIOLATIONS IN CERTAIN STATES.—In any case in which the Administrator determines, during a period during which a State does not have primary enforcement responsibility for carbon dioxide storage, that any person subject to any requirement of any applicable carbon dioxide storage program in the State is violating the requirement, the Administrator shall—

(i) issue an order under paragraph (2) requiring the person to comply with requirement; or

(ii) bring a civil action in accordance with paragraph (3).

(2) ADMINISTRATIVE ORDERS AND APPEALS.—

(A) IN GENERAL.—In any case in which the Administrator has the authority to bring a civil action under this subsection with respect to any regulation or other requirement of this section, the Administrator may, in addition to bringing the civil action, issue an order under this paragraph that—

(i) assesses a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum aggregate civil penalty of $125,000, for each covered entity;

(ii) requires compliance with the regulation or other requirement; or

(iii) accomplishes each of the actions described in clauses (i) and (ii).

(B) TIMING.—An order under this paragraph shall be issued by the Administrator only after an opportunity (provided in accordance with this paragraph) for a hearing.

(C) NOTICE.—Before issuing any order under subparagraph (A), the Administrator shall provide to the person to whom the order applies—

(i) written notice of the intent of the Administrator to issue the order; and

(ii) the opportunity to request, within the 30-day period beginning on the date of receipt by the person of the notice, a hearing on the order.

(D) REQUIREMENTS.—A hearing described in subparagraph (C)(ii)—

(i) shall not be subject to section 554 or 556 of title 5, United States Code; but

(ii) shall provide to each interested person a reasonable opportunity to be heard and to present evidence.

(E) NOTICE AND COMMENT.—The Administrator shall provide public notice of, and a reasonable opportunity to comment on, any proposed order.

(F) SPECIFIC NOTICE.—Any person who comments on any proposed order under subparagraph (E) shall be given notice of any hearing under this paragraph and of any order.

(G) EFFECTIVE DATE.—Any order issued under this paragraph shall become effective on the date that is 30 days after the date of issuance of the order, unless an appeal is taken pursuant to subparagraph (K).

(H) CONTENTS OF ORDER.—Any order issued under this paragraph—

(i) shall state with reasonable specificity the nature of the violation; and

(ii) may specify a reasonable period to achieve compliance.

(I) CONSIDERATIONS.—In assessing any civil penalty under this paragraph, the Administrator shall take into consideration all appropriate factors, including—

(i) the seriousness of the violation;

(ii) the economic benefit (if any) resulting from the violation;

(iii) any history of similar violations;

(iv) any good-faith efforts to comply with the applicable requirements;

(v) the economic impact of the penalty on the violator; and

(vi) such other matters as justice may require.

(J) OTHER ACTIONS.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting a civil action under a provision of law other than this section, or has issued an order under this paragraph assessing a civil penalty, shall not be subject to a civil action under paragraph (3).

(K) APPEALS.—Any person against whom an order is issued may file an appeal of the order, not later than 30 days after the date of issuance of the order, with—

(i) the United States District Court for the District of Columbia; or

(ii) the United States district court for the district in which the violation is alleged to have occurred.

(L) DISTRIBUTION OF COPIES.—An appellant shall simultaneously send a copy of an appeal filed under subparagraph (K) by certified mail to the Administrator and to the Attorney General.

(M) RECORD.—The Administrator shall promptly file in the appropriate court described in subparagraph (K) a certified copy of the record on which an order was based.

(N) JUDICIAL ACTION.—A court having jurisdiction over an order issued under this paragraph shall not—

(i) set aside or remand the order unless the court determines that—

(I) there is not substantial evidence on the record, taken as a whole, to support the finding of a violation; or

(II) the assessment by the Administrator of a civil penalty, or a requirement for compliance, constitutes an abuse of discretion; or

(ii) impose additional civil penalties for the same violation unless the court determines that the assessment by the Administrator of a civil penalty constitutes an abuse of discretion.

(O) FAILURE TO PAY.—

(i) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after an order becomes effective under subparagraph (G), or after a court, in a civil action brought under subparagraph (K), has entered a final judgment in favor of the Administrator, the Administrator may request the Attorney General to bring a civil action in an appropriate United States district court to recover the amount assessed, plus costs, attorneys' fees, and interest at currently prevailing rates, calculated from the date on which the order is effective or the date of the final judgment, as the case may be.

(ii) NO REVIEW OF AMOUNT.—In a civil action brought under clause (i), the validity, amount, and appropriateness of the civil penalty shall not be subject to review.

(P) AUTHORITY OF ADMINISTRATOR.—The Administrator may, in connection with administrative proceedings under this paragraph—

(i) issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum; and

(ii) request the Attorney General to bring a civil action to enforce any subpoena issued under this subparagraph.

(Q) ENFORCEMENT.—The United States district courts shall have jurisdiction to enforce, and impose sanctions with respect to, subpoenas issued under subparagraph (P).

(3) CIVIL AND CRIMINAL ACTIONS.—

(A) IN GENERAL.—A civil action referred to in subparagraph (B) or (C) of paragraph (1) shall be brought in the appropriate United States district court.

(B) AUTHORITY; JUDGEMENT.—A court described in subparagraph (A)—

(i) shall have jurisdiction to require compliance with any requirement of an applicable carbon dioxide storage program or with an order issued under paragraph (2); and

(ii) may enter such judgment as the protection of public health may require.

(C) PENALTIES.—Any person who violates any requirement of an applicable carbon dioxide storage program or an order requiring compliance under paragraph (2)—

(i) shall be subject to a civil penalty of not more than $25,000 for each day of such violation; and

(ii) if the violation is willful, may, in addition to or in lieu of the civil penalty under clause (i), be imprisoned for not more than 3 years, fined in accordance with title 18, United States Code, or both.

(4) EFFECT ON STATE AUTHORITY.—

(A) IN GENERAL.—Nothing in this subsection diminishes or otherwise affects any authority of a State or political subdivision of a State to adopt or enforce any law (including a regulation) (relating to the storage of carbon dioxide.

(B) OTHER REQUIREMENTS.—No law (including a regulation) described in subparagraph (A) shall relieve any person of any requirement otherwise applicable under this Act.

(e) FINANCIAL ASSURANCES FOR STORAGE OPERATORS.—

(1) IN GENERAL.—Each storage operator shall be required by the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) to have and maintain financial assurances of such type and in such amounts as are necessary to cover public liability claims relating to the storage facility of the storage operator.

(2) MAINTENANCE OF FINANCIAL ASSURANCES.—The financial assurances required under paragraph (1) shall be maintained by the storage operator until such time as the operator obtains a certificate of completion of injection operations under subsection (f).

(3) AMOUNT.—The amount of financial assurances required under paragraph (1) shall be the maximum amount of liability insurance available at a reasonable cost and on reasonable terms from private sources (including private insurance, private contractual indemnities, self-insurance, or a combination of those measures), as determined by the Administrator.

(f) CESSATION OF STORAGE OPERATIONS.—Upon a showing by a storage operator that a storage facility is reasonably expected to retain mechanical integrity and remain in place, the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) shall issue a certificate of completion of injection operations to the storage operator.

(g) LIABILITY OF STORAGE OPERATORS FOR RELEASE OF CARBON DIOXIDE.—

(1) IN GENERAL.—The Administrator shall agree to indemnify and hold harmless a storage operator (and if different from the storage operator, the owner of the storage facility) that has maintained financial assurances under subsection (e) from liability arising from the leakage of carbon dioxide at any storage facility operated by the storage operator, to the extent that the liability is in excess of the level of financial protection required of the storage operator.

(2) COMPLETION OF OPERATIONS.—Upon the issuance of certificate of completion of injection operations by a State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority)—

(A) the Administrator shall be vested with complete and absolute title and ownership of the storage facility and any stored carbon dioxide at the facility;

(B) the storage operator and all generators of any injected carbon dioxide shall be released from all further liability associated with the project; and

(C)(i) any performance bonds posted by the storage operator shall be released; and

(ii) continued monitoring of the storage facility, including remediation of any well leakage, shall become the responsibility of the Administrator.

(h) FUNDING.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall collect an annual assessment from each storage operator for each storage facility that has not obtained a certificate of completion of injection operations.

(2) ASSESSMENT AMOUNT.—The amount of the assessment for a storage facility for a fiscal year shall be equal to the product obtained by multiplying—

(A) the per-ton assessment for the fiscal year calculated under paragraph (4); and

(B) the total number of tons of carbon dioxide injected for storage by the storage operator during the preceding fiscal year at all storage facilities operated by the storage operator during the fiscal year.

(3) AGGREGATE AMOUNT.—The aggregate amount of assessments collected from all storage operators under paragraph (1) for any fiscal year shall be equal to the sum of, with respect to the fiscal year—

(A) any indemnification payments required to be made pursuant to subsection (g)(1);

(B) any costs associated with storage facilities to which the Administrator has taken title pursuant to subsection (g)(2), including costs associated with any—

(i) inspection, monitoring, recordkeeping, and reporting requirements of those facilities;

(ii) remediation of carbon dioxide leakage; or

(iii) plugging and abandoning of remaining wells; and

(C) any costs associated with public liability of storage facilities to which the Administrator has taken title pursuant to subsection (g)(2).

(4) CALCULATION OF ASSESSMENT.—The assessment under this subsection per ton of carbon dioxide for a fiscal year shall be equal to the quotient obtained by dividing—

(A) the aggregate amount of assessments calculated under paragraph (3) for the fiscal year; by

(B) the aggregate number of tons of carbon dioxide injected for storage during the preceding fiscal year by all storage operators.

(5) INFORMATION.—The Administrator shall require the submission of such information by each storage operator on an annual basis as is necessary to make the calculations required under this subsection.

(i) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—The Administrator shall promulgate regulations for permitting commercial-scale underground injection of carbon dioxide for purposes of geological sequestration under this section.

(2) SAFE DRINKING WATER ACT.—Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) shall not be used as a basis for permitting commercial-scale underground injection or storage of carbon dioxide.

Beginning on page 329, strike line 1 and all that follows through page 330, line 3.

At the end of title X, add the following:

**Subtitle D—Clean Coal Technology Incentives**

**SEC. 1031. SHORT TITLE.**

This subtitle may be cited as the ''Energy Security and Climate Enhancement Through Clean Coal Technology Act of 2008''.

**SEC. 1032. MODIFICATION OF SPECIAL RULES FOR ATMOSPHERIC POLLUTION CONTROL FACILITIES.**

(a) IN GENERAL.—Subsection (d) of section 169 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—Notwithstanding paragraph (1), the term 'pollution control facility' includes any mechanical or electronic system which—

''(A) which is a new identifiable treatment facility (as defined in paragraph (4)),

''(B) which is—

''(i) installed after December 31, 2007, and

''(ii) used in connection with an electric generation plant or other property which is primarily coal fired, and

''(C) which is certified by the owner or operator of the plant or other property, in such form and manner as prescribed by the Secretary, to reduce carbon dioxide emissions per net megawatt hour of electricity generation by—

''(i) optimizing combustion,

''(ii) optimizing sootblowing and heat transfer,

''(iii) upgrading steam temperature control capabilities,

''(iv) reducing exit gas temperatures (air heater modifications)

''(v) predrying low rank coals using power plant waste heat,

''(vi) modifying steam turbines or change the steam path/blading,

''(vii) replacing single speed motors with variable speed drives for fans and pumps,

''(viii) improving operational controls, including neural networks, or

''(ix) any other means approved by the Secretary, in consultation with the Secretary of Health and Human Services.''.

(b) DEDUCTION NOT ADJUSTED FOR PURPOSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—Paragraph (5) of section 56(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''The preceding sentences of this paragraph shall not apply to any pollution control facility described in section 169(d)(6).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007.

**SEC. 1033. EXTENSION AND MODIFICATION OF PRODUCTION CREDIT FOR CLOSED-LOOP BIOMASS.**

(a) IN GENERAL.—Clause (ii) of section 45(d)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iii) owned by the taxpayer which after before January 1, 2014 is originally placed in service and modified, or is originally placed in service as a facility, to use closed-loop biomass to co-fire (or, in the case of an integrated gasification combined cycle facility, to co-process) with coal, with other biomass, or with both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after the date of the enactment of this Act.

**SEC. 1034. QUALIFYING NEW CLEAN COAL POWER PLANT CREDIT.**

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48B the following new section:

**''SEC. 48C. QUALIFYING NEW CLEAN COAL POWER PLANT CREDIT.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 46, the qualifying new clean coal power plant credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

| ''In the case of a plant which either has— | | | The applicable percentage is: |
|---|---|---|---|
| a design net heat rate below— | or | a carbon dioxide emission rate of— | |
| 7,580 Btu/kWh (45% efficiency) | | 1,577 lbs/MWh or less | 30 percent |
| 7,760 Btu/kWh (44% efficiency) | | 1,613 lbs/MWh or less | 28 percent |
| 7,940 Btu/kWh (43% efficiency) | | 1,650 lbs/MWh or less | 26 percent |
| 8,120 Btu/kWh (42% efficiency) | | 1,690 lbs/MWh or less | 20 percent |
| 8,322 Btu/kWh (41% efficiency) | | 1,731 lbs/MWh or less | 10 percent |
| 8,530 Btu/kWh (40% efficiency) | | 1,774 lbs/MWh or less | 10 percent |

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying new clean coal power plant—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

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

''(1) QUALIFYING NEW CLEAN COAL POWER PLANT.—The term 'qualifying new clean coal power plant' means a facility which—

''(A) which meets the requirements of section 48A(e),

''(B) which either—

''(i) has a design net heat rate of below 8,530 Btu/kWh, or

''(ii) has a carbon dioxide emission rate of 1,774 lbs/MWh or less, and

''(C) which—

''(i) is designed to capture carbon dioxide emissions, or

''(ii)(I) is designed to include a built-in space for future carbon dioxide capture hardware (and improved foundations and ironwork necessary to accommodate the additional hardware),

''(II) includes an engineering feasibility study identifying a system, including associated cost and performance parameters, to retrofit carbon capture equipment, and

''(III) includes a site or sited identified where carbon dioxide may be stored or used for commercial purposes.

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is a part of a qualifying new clean coal power plant.

''(d) QUALIFYING NEW CLEAN COAL POWER PLANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying new clean coal power plant program, under which the Secretary shall certify projects eligible for the credit under subsection (a)

''(2) APPLICATION.—An application under for certification under this section shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements of this section. Any information contained in the application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

''(3) AGGREGATE CREDITS.—The aggregate or projects certified by the Secretary under this subsection shall not exceed an aggregate capacity for electricity generation of more than 6,000 megawatts.''.

''(e) RECAPTURE OF CREDIT.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain any of the requirements of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the qualifying new clean coal power plant credit.''.

(2) Section 49(a)(1)(C) of such Code 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 basis of any property which is part of a qualifying new clean coal power plant under section 48C.''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying new clean coal power plant credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1035. INVESTMENT CREDIT FOR EQUIPMENT USED TO CAPTURE, TRANSPORT, AND STORE CARBON DIOXIDE.**

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after section 48C the following new section:

**''SEC. 48D. EQUIPMENT USED TO CAPTURE, TRANSPORT, AND STORE CARBON DIOXIDE EMISSIONS.**

''(a) GENERAL RULE.—For purposes of section 46, the qualifying carbon dioxide equipment credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year.

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

''(1) ELIGIBLE PROPERTY.—The term 'eligible property' means equipment installed on a qualified coal-fired electric power generating unit to capture, transport, and store carbon dioxide produced at such generating unit, including equipment to separate and pressurize carbon dioxide for transport (including hardware to operate such equipment) and equipment to transport, inject, and monitor such carbon dioxide, as further specified and identified, by rule, by the Secretary.

''(2) QUALIFIED COAL-FIRED ELECTRIC GENERATION UNIT.—The term 'qualified coal-fired electric generation unit' means a unit which, after installation of eligible property, is designed to capture and store in a geologic formation not less than 500,000 metric tons of carbon dioxide per year.

''(d) AGGREGATE CREDITS.—The credits allowed under subsection (a) shall apply only to the first 9,000 megawatts of capacity of qualified coal-fired electric power generating units certified by the Secretary under subsection (e).

''(e) CERTIFICATION.—

''(1) CERTIFICATION PROCESS.—The Secretary shall establish a certification process to determine the extent to which eligible property has been installed on a qualified coal-fired electric power generating unit, and to make such other determinations as the Secretary deems appropriate. The Secretary shall prepare an application for certification.

''(2) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application for certification shall contain such information as the Secretary may require in order to establish credit entitlement. Any information contained in an application shall be protected as provided in section 552(b)(4) of title 5, United States Code.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) the qualifying carbon dioxide equipment credit.''.

(2) Section 49(a)(1)(C) of such Code, as amended by this Act, is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) the basis of any eligible property under section 48D.''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code, as amended by this Act is amended by inserting after the item relating to section 48C the following new section:

''Sec. 48D. Equipment used to capture, transport, and store carbon dioxide emissions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1036. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION IN THE GENERATION OF ELECTRICITY.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

**''SEC. 45Q. CREDIT SEQUESTERING CARBON DIOXIDE IN THE GENERATION OF ELECTRICITY.**

''(a) GENERAL RULE.—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

''(1) $30 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility during the credit period, and

''(B) disposed of by the taxpayer in secure geological storage, and

''(2) $10 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility during the credit period, and

''(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

''(b) QUALIFIED FACILITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified facility' means any industrial facility—

''(A) which is owned by the taxpayer,

''(B) at which carbon capture equipment is placed in service,

''(C) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year, and

''(D) which is certified by the Secretary under paragraph (2).

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish a program under which facilities which use coal for the generation of electricity are certified for purposes of this section.

''(B) LIMITATION.—The total aggregate generating capacity of all facilities certified by the Secretary under this paragraph shall not exceed 9,000 megawatts.

''(c) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

''(A) would otherwise be released into the atmosphere as industrial emissions of greenhouse gas, and

''(B) is measured at the source of capture and verified at the point of disposal or injection.

''(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

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

''(1) CREDIT PERIOD.—The term 'credit period' means, with respect to any qualified facility, the 10-year period beginning on the date on which qualified carbon dioxide for which a credit was allowed under subsection (a) was first captured.

''(2) ONLY CARBON DIOXIDE CAPTURED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture of which is within—

''(A) the United States (within the meaning of section 638(1)), or

''(B) a possession of the United States (within the meaning of section 638(2)).

''(3) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

''(4) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

''(5) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term 'qualified enhanced oil or natural gas recovery project' has the meaning given the term 'qualified enhanced oil recovery project' by section 43(c)(2), by substituting 'crude oil or natural gas' for 'crude oil' in subparagraph (A)(i) thereof.

''(6) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

''(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

''(8) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

''(A) such dollar amount, multiplied by

''(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2007' for '1990'.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', plus'', and by adding at the end of following new paragraph:

''(34) the carbon dioxide sequestration credit determined under section 45Q(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''Sec. 45Q. Credit for sequestering carbon dioxide in the generation of electricity.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply carbon dioxide captured after the date of the enactment of this Act.

**SEC. 1037. CLEAN ENERGY COAL BONDS.**

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to qualified tax credit bonds) is amended by adding at the end the following new section:

**''SEC. 54C. CLEAN ENERGY COAL BONDS.**

''(a) CLEAN ENERGY COAL BOND.—For purposes of this subchapter—

''(1) IN GENERAL.—The term 'clean energy coal bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean energy coal bond limitation under subsection (b)(2);

''(B) 100 percent of the available project proceeds from the sale of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects;

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form; and

''(D) in lieu of the requirements of section 54A(d)(2), the issue meets the requirements of subsection (c).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means a qualified clean coal project (as defined in subsection (f)(1)) placed in service by a qualified borrower.

''(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean energy coal bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

''(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean energy coal bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean energy coal bond;

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

''(iii) reimbursement is not made later than 18 months after the date the original expenditure is paid or the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

''(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean energy coal bond.

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

''(1) NATIONAL LIMITATION.—There is a national clean energy coal bond limitation of $5,000,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

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

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

''(A) 100 percent or more of the available project proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond;

''(B) a binding commitment with a third party to spend at least 10 percent of such available project proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the available project proceeds of which are to be loaned to 2 or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower; and

''(C) such projects will be completed with due diligence and the available project proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 100 percent of the available project proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified 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.

''(d) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

''(1) 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), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

''(2) CLEAN ENERGY BOND LENDER.—The term 'clean 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.

''(3) PUBLIC POWER ENTITY.—The term 'public power entity' 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 enactment of this paragraph).

''(4) QUALIFIED ISSUER.—The term 'qualified issuer' means—

''(A) a clean energy bond lender;

''(B) a cooperative electric company; or

''(C) a public power entity.

''(5) QUALIFIED BORROWER.—The term 'qualified borrower' means—

''(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or

''(B) a public power entity.

''(e) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) QUALIFIED CLEAN COAL PROJECT.—For purposes of this section, the term 'qualified clean coal project' means—

''(A) an atmospheric pollution control facility (within the meaning of section 169(d)(5)(C));

''(B) a closed-loop biomass facility (within the meaning of section 45(d)(2));

''(C) a qualified new clean coal power plant (within the meaning of section 48C(d)(1));

''(D) qualifying carbon dioxide equipment described in section 48D(c)(1); or

''(E) a qualified facility (within the meaning of section 450(c)).

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(g) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2018.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended to read as follows:

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

''(A) a qualified forestry conservation bond, or

''(B) a clean energy coal 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) of such Code is amended to read as follows:

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

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a clean energy coal bond, a purpose specified in section 54C(f)(1).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 54C. Clean energy coal bonds.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2008.

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**SA 4944.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Clarification of Use of Amounts Deposited Into Funds**

**SEC. 1771. CLARIFICATION.**

Notwithstanding any other provision of law (including regulations), amounts deposited in any fund established pursuant to this Act for the purpose of technology development shall be in addition to, and shall not supplant, funds otherwise made available for that purpose in an appropriations Act.

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**SA 4945.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 489, between lines 3 and 4, insert the following:

(c) AUTHORITY TO ESTABLISH STANDARDS FOR MOBILE SOURCES.—Nothing in this Act confers on the Federal Government or any State government any authority to establish any form of standard, limitation, prohibition, or cap relating to greenhouse gas emissions for mobile sources.

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**SA 4946.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 192, strike line 20 and insert the following:

generators in the United States, and an additional quantity to fossil fuel-fired electricity generators that sell electricity at a price regulated by a State entity, or rural electric cooperatives.

On page 193, strike the table before line 1 and insert the following:

| Calendar year | Percentage for distribution among fossil fuel-fired electricity generators in the United States | Percentage for distribution among fossil fuel-fired electricity generators in the United States with regulated prices |
|---|---|---|
| 2012 | 18 | 1 |
| 2013 | 18 | 1 |
| 2014 | 18 | 1 |
| 2015 | 18 | 1 |
| 2016 | 17.75 | 1 |
| 2017 | 17.5 | 1 |
| 2018 | 17.25 | 1 |
| 2019 | 16.25 | 2 |
| 2020 | 15 | 3 |
| 2021 | 13.5 | 3 |
| 2022 | 11.25 | 4 |
| 2023 | 10.25 | 5 |
| 2024 | 9 | 6 |
| 2025 | 8.75 | 6 |
| 2026 | 5.75 | 7 |
| 2027 | 4.5 | 8 |
| 2028 | 4.25 | 8 |
| 2029 | 3 | 9 |
| 2030 | 2.75 | 9. |

On page 196, between lines 14 and 15, insert the following:

(d) FOSSIL FUEL-FIRED ELECTRICITY GENERATORS IN THE UNITED STATES WITH REGULATED PRICES.—

(1) IN GENERAL.—The emission allowances allocated for a calendar year by section 551 for fossil fuel-fired electricity generators in the United States with regulated prices shall be distributed in the same manner as emission allowances are distributed under subsections (a) through (c).

(2) ADJUSTMENT.—The Administrator shall adjust emission allowances distributed to other non-covered entities under this Act by an across-the-board adjustment so as to ensure that the total percentage of emission allowances allocated under this Act equals 100 percent.

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**SA 4947.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, after line 25, insert the following:

**SEC. 1308. RESPONSE TO CERTAIN ACTIONS ARISING OUT OF WORLD TRADE ORGANIZATION PROCEEDINGS.**

(a) IN GENERAL.—The United States Trade Representative shall provide timely notice to Congress, through the Chairman and Ranking Members of the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, of proceedings before the World Trade Organization challenging the consistency of any aspect of this subtitle with respect to international agreements to which the United States is a party. The notice shall include—

(1) the commencement of any such proceeding;

(2) any decision by a dispute settlement panel or body with respect to such a proceeding;

(3) the status of any implementation period provided for the United States to bring a measure into conformity with the recommendations or rulings of the Dispute Settlement Body of the World Trade Organization and arising out of any such a proceeding, as well as the timetables associated with any such implementation period;

(4) authorization of any foreign country to engage in retaliatory actions in response to the failure of the United States to implement any recommendation or ruling of the Dispute Settlement Body of the World Trade Organization; and

(5) the commencement of retaliatory actions by any foreign country against products of the United States arising out of any such proceeding.

(b) NOTICE TO ADMINISTRATOR.—The United States Trade Representative shall provide notice to the Administrator of the Environmental Protection Agency of any retaliatory action by a foreign country pursuant to authorization by the Dispute Settlement Body of the World Trade Organization and in response to a finding that the United States has failed to implement any recommendation or ruling of the Dispute Settlement Body relating to a proceeding described in subsection (a).

(c) SUSPENSION OF RESERVE ALLOWANCE.—Upon receipt of any notification described in subsection (b), the Administrator shall suspend application of the international reserve allowance program established under section 1306 and shall promptly publish notification of the termination of the program.

(d) CESSATION OF EMISSION ALLOWANCE AND OFFSET.—Notwithstanding any other provision of this Act, effective with the publication of the notification described in subsection (c), any obligation of an affected domestic producer of competitive goods to submit an emission allowance or offset under section 202 to account for emissions associated with the production of an affected domestic product shall cease to apply.

(e) DISTRIBUTION TO AFFECTED DOMESTIC PRODUCERS.—Notwithstanding any other provision of this Act, effective in the first calendar year following any termination of the international reserve allowance program, as described in subsection (c), and continuing through 2050, the Administrator shall establish a program to distribute a quantity of emission allowances established pursuant to section 201(a) to each entity that was an affected domestic producer of competitive goods during the last year of operation of the international reserve allowance program. The quantity of emission allowances distributed to each such entity shall be sufficient to offset any additional costs arising out of the requirements of this Act (other than costs arising out of any obligation terminated pursuant to subsection (d)) in the production of an affected domestic product, including costs arising from the purchase of electricity or from allowance requirements imposed upon the producers of inputs used to produce an affected domestic product.

(f) REGULATIONS.—Following publication of notice of any termination of the international reserve allowance program, as described in subsection (c), the Administrator shall promulgate such regulations as the Administrator determines to be necessary to implement the requirements of this section.

(g) DEFINITIONS.—For purposes of this title:

(1) AFFECTED DOMESTIC PRODUCERS OF COMPETITIVE GOODS.—The term ''affected domestic producers of competitive goods'' means any manufacturing entity in the United States that makes products like or directly competitive with any product treated as a covered good.

(2) AFFECTED DOMESTIC PRODUCT.—The term ''affected domestic product'' means a product produced by any manufacturing entity in the United States that is like or directly competitive with any product treated as a covered good.

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**SA 4948.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 481, strike line 14 and insert the following:

(b) PRESIDENTIAL DETERMINATION OF ECONOMIC SECURITY EMERGENCY.—For purposes of this section, the President shall determine that an economic security emergency exists in any situation in which the price charged for an emission allowance under this Act is prohibitively expensive, as determined by the Board, by regulation.

(c) CONSULTATION.—In making an emergency dec-

On page 482, strike lines 2 through 4 and insert the following:

After making an emergency declaration under section 1711—

(1) the President shall declare, by proclamation, each action required to minimize the emergency; and

(2) if the emergency declaration was made as a result of an economic security emergency, all compliance obligations under title

II shall be suspended until such date as the proclamation is terminated under section 1715.

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**SA 4949.** Ms. STABENOW (for herself, Mr. CRAPO, Mr. BROWNBACK, Mr. SALAZAR, Mrs. DOLE, Mr. JOHNSON, Mr. CONRAD, Ms. KLOBUCHAR, and Mr. WARNER) submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, strike lines 23 through 25 and insert the following:

(B) EXCLUSIONS.—The term ''manufacture'' does not include—

(i) the creation of a greenhouse gas through anaerobic decomposition; or

(ii) the creation of a greenhouse gas from manure or enteric fermentation.

On page 28, line 4, insert '', destroys, or avoids'' after ''reduces''.

On page 28, line 6, strike ''from sources or sinks''.

On page 28, between lines 8 and 9, insert the following:

(____) OFFSET PROJECT REPRESENTATIVE.—The term ''offset project representative'' means an individual or entity designated as an offset project representative in a petition for an offset project submitted under section 304.

Beginning on page 77, strike line 9 and all that follows through page 121, line 15, and insert the following:

**SEC. 302. ESTABLISHMENT OF A DOMESTIC OFFSET PROGRAM.**

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator and the Secretary of Agriculture shall promulgate regulations authorizing the certification and issuance of offset allowances in accordance with this subtitle

(b) USE.—The regulations under subsection (a) shall provide that, beginning with calendar year 2012, owners and operators of covered entities may satisfy the allowance submission requirements of the owners and operators under section 202 for each calendar year by submitting a carbon dioxide equivalent quantity of domestic offset allowances of up to 1,000,000,000 tons.

(c) CARRYOVER.—If the carbon dioxide equivalent quantity of domestic offset allowances submitted for a calendar year pursuant to this subtitle is less than 1,000,000,000 tons, notwithstanding subsection (b), the carbon dioxide equivalent quantity of domestic offset allowances that may be submitted by covered entities under this subtitle for the subsequent calendar year shall not exceed the sum of—

(1) 1,000,000,000 tons; and

(2) the difference between—

(A) 1,000,000,000 tons; and

(B) the carbon dioxide equivalent tons of offset allowances and emission allowances submitted by covered entities for the preceding calendar year under this subtitle.

(d) REDUCTION.—Beginning in calendar year 2030, the Administrator may reduce the quantity of tons of carbon dioxide equivalents available for offsets under this section except that the quantity may not be reduced to less than 85 percent of the quantity of tons specified in subsection (b).

(e) EXCHANGE FOR OFFSETS FROM STATE AND REGIONAL REGULATORY PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Administrator shall issue offset allowances for projects that address emissions of greenhouse gas that would otherwise not have been covered under the limitations on emissions of greenhouse gases under this Act and meet the requirements of this subtitle for offset allowances—

(A) issued under a State or regional greenhouse gas regulatory program; or

(B) are registered under or meet the standards of—

(i) the Climate Registry;

(ii) the California Climate Action Registry;

(iii) the Climate Action Reserve;

(iv) the GHG Registry;

(v) the Chicago Climate Exchange;

(vi) the GHG Clean Projects Registry; or

(vii) any other Federal or private reporting program.

(2) NONAPPLICABILITY.—This subsection shall not apply to offset allowances that have expired or been retired or canceled under a program described in paragraph (1).

(f) REQUIREMENTS.—The regulations promulgated pursuant to subsection (a) shall—

(1) authorize the issuance and certification of offset allowances for greenhouse gas emission reductions, destruction, or avoidance, or increases in sequestration relative to the offset project baseline; for offset projects approved pursuant to section 304 in categories on the list issued under section 303;

(2) ensure that those offsets represent real, enforceable, verifiable, additional, and permanent reductions in greenhouse gas emissions or increases in sequestration;

(3) require that the offset project representative for an offset project establish the project baseline and register emission reductions with the offset Registry;

(4) specify the types of offset projects eligible to generate offset allowances, in accordance with section 303;

(5) establish procedures to monitor, quantify, and discount reductions in greenhouse gas emissions or increases in biological sequestration, in accordance with section 303;

(6) establish procedures for project initiation and approval, in accordance with section 304;

(7) establish procedures for third-party verification, registration, and issuance of offset allowances, in accordance with section 305;

(8) ensure permanence of offsets by mitigating and compensating for reversals, in accordance with section 306; and

(9) assign a unique serial number to each offset allowance issued under this section.

(g) OFFSET ALLOWANCES REWARDED.—The Administrator shall issue to the offset project representative offset allowances for qualifying emission reductions, destruction, or avoidance and biological sequestrations from an offset project that satisfies the applicable requirements of this subtitle.

(h) TRANSFERABILITY.—An offset allowance generated pursuant to this subtitle may be sold, traded, or transferred, on the condition that the offset allowance has not expired or been retired or canceled.

**SEC. 303. ELIGIBLE OFFSET PROJECT TYPES.**

(a) IN GENERAL.—An offset allowance from agricultural, forestry, or other land use-related projects shall be provided only for achieving an offset of 1 or more greenhouse gases by a method other than a reduction of combustion of greenhouse gas-emitting fuel.

(b) TYPES OF ELIGIBLE OFFSET PROJECTS.—

(1) LIST OF ELIGIBLE AGRICULTURAL AND FORESTRY OFFSET PROJECT TYPES.—

(A) TYPES.—The Secretary of Agriculture, in consultation with the Administrator, shall maintain a list of types of agricultural and forestry offset projects eligible to generate offset allowances under this subtitle, which list shall include—

(i) agricultural, grassland, and rangeland sequestration and management practices, including—

(I) altered tillage practices;

(II) winter cover cropping, continuous cropping, and other means to increase biomass returned to soil in lieu of planting followed by fallowing;

(III) conversion of cropland to rangeland or grassland, on the condition that the land has been in nonforest use for at least 10 years before the date of initiation of the project;

(IV) reduction of nitrogen fertilizer use or increase in nitrogen use efficiency;

(V) reduction in the frequency and duration on flooding of rice paddies;

(VI) reduction in carbon emissions from organic soils;

(VII) reduction in greenhouse gas emissions from manure and effluent; and

(VIII) reduction in greenhouse gas emissions due to changes in animal management practices, including dietary modifications;

(ii) changes in carbon stocks attributed to land use change and forestry activities, including—

(I) afforestation or reforestation of acreage not forested as of October 18, 2007; and

(II) forest management resulting in an increase in forest carbon stores;

(III) management of peatland or wetland; and

(IV) conservation of grassland and forested land;

(iii) manure management and disposal, including—

(I) waste aeration; and

(II) biogas capture and combustion; and

(iv) any combination of any of the offset project types described in this subparagraph.

(B) ADDITIONS TO THE LIST OF ELIGIBLE AGRICULTURAL AND FORESTRY OFFSET PROJECT TYPES.—

(i) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary of Agriculture, in consultation with the Administrator, after public notice and opportunity for comment, shall add types of offset projects to the list provided under subparagraph (A) if those types of projects meet standards for environmental integrity that are consistent with the purposes of this Act.

(ii) ADDITIONAL TYPES.—The Secretary of Agriculture, in consultation with the Administrator, shall also consider petitions to add types of offset projects to the list provided under subparagraph (A) if those types of projects meet standards for environmental integrity consistent with the purposes of this Act.

(c) LIST OF OTHER ELIGIBLE OFFSET PROJECT TYPES.—

(1) TYPES.—The Administrator shall maintain a list of types of offset projects not related to agriculture and forestry that are eligible to generate offset allowances under this subtitle, which list shall include—

(A) the capture or reduction of fugitive greenhouse gas emissions for which no covered facility is required under section 202(a) to submit any emission allowances, offset allowances, or international emission allowances;

(B) methane capture or combustion at nonagricultural facilities, including landfills, waste-to-energy facilities, and coal mines;

(C) reduction, destruction, or avoidance of sulfur hexafluoride emissions from sources of the emissions, including electrical transformation and distribution equipment;

(D) the capture and geological sequestration of greenhouse gas emissions that would not otherwise have been covered under the limitation on the emission of greenhouse gases under this Act;

(E) any other category proposed to the Administrator by petition; and

(F) any combination of any of the offset project types described in this paragraph.

(2) ADDITIONS TO THE LIST OF ELIGIBLE OFFSET PROJECTS NOT RELATED TO AGRICULTURE AND FORESTRY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Administrator, after public notice and opportunity for comment, shall add types of offset projects to the list provided under paragraph (1) if those types of projects meet standards for environmental integrity that are consistent with the purposes of this Act.

(B) ADDITIONAL TYPES.—The Administrator shall also consider petitions to add types of offset projects to the list provided under subparagraph (A) if those types of projects meet standards for environmental integrity consistent with the purposes of this Act.

(d) ADOPTION OF COMMON PROCEDURES.—

(1) IN GENERAL.—The program established under this section shall include the use of a separate set of procedures for rapidly approving and issuing allowances to types of projects listed under subsection (b) or (c), to the maximum extent practicable, if the Administrator and the Secretary of Agriculture for types of agricultural and forestry offset projects, determines that—

(A) there are broadly accepted standards or methodologies for quantifying and verifying the long-term greenhouse gas emission and mitigation benefits of the projects; and

(B) the procedures meet the requirements of this subtitle.

(2) CATEGORIES OF PROJECTS.—The procedures described in paragraph (1) shall apply to—

(A) methane capture and combustion at nonagricultural facilities, including landfills and coal mines;

(B) manure management and disposal, including waste aeration and biogas capture and combustion;

(C) reduction of sulfur hexafluoride emissions from sources of the emissions, including electrical transformation and distribution equipment;

(D) such other categories of projects as the Administrator, in consultation with the Secretary of Agriculture for types of agricultural and forestry offset projects, may specify by regulation, subject to public notice and comment; and

(E) afforestation or reforestation of acreage not forested as of October 18, 2007, if the afforestation or reforestation uses native plant species.

(e) REQUIREMENTS FOR OFFSET METHODOLOGIES.—

(1) ISSUANCE.—Not later than three 2 years after the date of enactment of this Act, after public notice and opportunity for comment—

(A) the Secretary of Agriculture shall issue a methodology for each category listed pursuant to subsection (b); and

(B) the Administrator shall issue a methodology for each category listed pursuant to subsection (c).

(2) SPECIFIC REQUIREMENTS.—The methodology for each category issued under paragraph (1) shall—

(A) specify requirements for—

(i) determining additional emission reductions, destruction, avoidance, or sequestrations from a project;

(ii) accounting for emission leakage associated with an offset project;

(iii) accounting for a reversal, and managing for the risk of reversal, from an offset project involving biological sequestration; and

(iv) monitoring, verifying, and reporting the operation of an offset project;

(B) in the case of an agricultural and forestry offset project, take into account methodologies developed under section 1245 of the Food Security Act of 1985;

(C) include—

(i) a procedure for determining that the emission reductions, destruction, avoidance, or sequestrations from an offset project are not double-counted under any other program;

(ii) a procedure for delineating the boundaries of an offset project and determining the extent, if any, of emissions leakage from the offset project, based on scientifically sound methods, as determined by the Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects;

(iii) a description of scientifically sound methods, as determined by the Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects, for use in monitoring, measuring, and quantifying changes in emissions or sequestrations resulting from an offset project, including—

(I) a method for use in quantifying the uncertainty in those measurements; and

(II) a description of site-specific data that will be used in that monitoring, measurement, and quantification;

(iv) a procedure for use in establishing the baseline for an offset project that ensures that offset allowances will be issued only for emission reduction, destruction, avoidance, or sequestrations that are additional;

(v)(I) a threshold of uncertainty in the quantification of emission reductions, destruction, avoidance, or sequestrations and for baseline emission levels above which an offset project shall not be eligible to receive offset allowances; and

(II) a procedure by which an offset project representative may petition for different uncertainty factors if the offset project representative demonstrates to the Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects, that the measurement methods used by the offset project have less uncertainty than assumed under the default methodology;

(vi) clear and objective tests specified by the Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects, that are sufficient to ensure that an offset project—

(I) will be eligible to generate offset allowances only if, in the judgment of the Administrator and the Secretary of Agriculture, the project is additional; and

(II) is not required by existing government regulations, as determined by the Administrator and the Secretary of Agriculture;

(vii) a procedure to estimate leakage and ensure that the issuance of offset allowances is reduced an amount equivalent to the quantity of that leakage;

(viii) a procedure for use in—

(I) determining whether the quantity of carbon sequestered on or in land where a project is carried out was significantly changed during the 10-year period prior to initiation of the project; and

(II) excluding the offset project from receiving allowances under this subtitle, or adjusting the baseline of the offset project accordingly; and

(ix) a protocol for use in reporting emissions reductions, destruction, avoidance, or sequestrations (and any reversals) at least annually for the duration of the crediting period of the offset project pursuant to section 305(b).

(3) REVISION.—

(A) REVISION BY THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall revise each methodology issued under paragraph (1)(A), after public notice and opportunity for comment, not more once than every 10 years.

(B) REVISION BY THE ADMINISTRATOR.—The Administrator shall revise each methodology issued under paragraph (1)(B), after public notice and opportunity for comment, no more than once every 10 years.

(4) PROJECT CONFORMITY.—

(A) IN GENERAL.—If an offset project is approved pursuant to section 304 under a methodology that subsequently is revised under paragraph (3), the project shall remain subject to the prior methodology for the duration of the crediting period of the project pursuant to section 305(b).

(B) NEW CREDITING PERIOD.—An offset project described in subparagraph (A) may not be approved for a new crediting period unless the offset project representative demonstrates to the Administrator that the offset project is in conformity with a methodology that is in effect as of the date on which the petition for the offset project is filed.

(f) TECHNOLOGIES.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects, may issue, after notice and comment, a list of technologies and associated performance benchmarks the achievement of which the Administrator has determined shall be considered to be additional in specific project applications.

(2) PERIOD OF VALIDITY.—A determination of the Administrator with respect to paragraph (1) shall be valid for not more than 10 years after the date of the determination.

(g) METHODOLOGY TESTING.—The Administrator and the Secretary of Agriculture may not issue a methodology under this section until the Administrator or the Secretary of Agriculture, as applicable, determines that—

(1) the methodology has been tested by 3 independent expert teams on at least 3 different offset projects to which that methodology would apply; and

(2) the emission reductions, destruction, avoidance, or sequestrations estimated by the expert teams for the same offset project do not differ by more than 10 percent.

**SEC. 304. PROJECT INITIATION AND APPROVAL.**

(a) PROJECT APPROVAL.—An offset project representative—

(1) may submit a petition for offset project approval at any time following the effective date of regulations promulgated under section 302; but

(2) may not use or distribute offset allowances until such approval is received and until after the emission reduction, destruction, avoidance, or sequestrations supporting the offset allowances have actually occurred.

(b) PETITION PROCESS.—A project petition shall consist of—

(1) a copy of the monitoring and quantification plan prepared for the offset project, as described in subsection (d);

(2) in the case of an offset project involving biological sequestration, a greenhouse gas initiation certification, as described under subsection (f);

(3) a designation of the individual or entity that shall be the offset project representative for the offset project;

(4) a monitoring and quantification plan from a third party verifier; and

(5) subject to this subtitle, any other information identified by the Administrator in the regulations promulgated under section 302 as being necessary to meet the objectives of this subtitle.

(c) APPROVAL AND NOTIFICATION.—

(1) IN GENERAL.—Not later than 120 days after the date on which the Administrator receives a complete petition under subsection (b), the Administrator, in conjunction with the Secretary of Agriculture, shall—

(A) determine whether the monitoring and quantification plan satisfies the applicable requirements of this subtitle;

(B) determine whether any greenhouse gas initiation certification indicates a significant deviation in accordance with subsection (f)(3); and

(C) notify the offset project representative of the determinations under subparagraphs (A) and (B).

(2) APPEAL.—The Administrator shall establish mechanisms for appeal and review of determinations made under this subsection.

(d) MONITORING AND QUANTIFICATION.—

(1) IN GENERAL.—An offset project representative shall make use of the standardized tools and methods described in this section to monitor, quantify, and discount reductions, destruction, or avoidance in greenhouse gas emissions or increases in sequestration.

(2) MONITORING AND QUANTIFICATION PLAN.—A monitoring and quantification plan shall be used to monitor, quantify, and discount reductions, destruction, or avoidance of greenhouse gas emissions or increases in sequestration as described by this subsection.

(3) PLAN COMPLETION AND RETENTION.—A monitoring and quantification plan shall be—

(A) completed for all offset projects prior to offset project initiation; and

(B) retained by the offset project representative for the duration of the offset project.

(4) PLAN REQUIREMENTS.—Subject to section 302, the Administrator and the Secretary of Agriculture shall specify the required components of a monitoring and quantification plan, including—

(A) a description of the offset project, including project type;

(B) a determination of accounting periods;

(C) an assignment of reporting responsibility to the offset project representative;

(D) the contents and timing of public reports, including summaries of the original data, as well as the results of any analyses;

(E) a delineation of project boundaries, based on acceptable methods and formats;

(F) a description of which of the monitoring and quantification tools developed under subsection (g) are to be used to monitor and quantify changes in greenhouse gas fluxes or carbon stocks associated with a project;

(G) a description of which of the standardized methods developed under subsection (h) to be used to determine additionality, estimate the baseline carbon, and discount for leakage;

(H) what site-specific data, if any, will be used in monitoring and quantification;

(I) a description of procedures for use in managing and storing data, including quality-control standards and methods, such as redundancy in case record are lost;

(J) subject to the requirements of this subtitle, any other information identified by the Administrator and the Secretary of Agriculture as being necessary to meet the objectives of this subtitle; and

(K) in the case of an offset project involving biological sequestration, a description of the risk of reversals for the project, including any way in which the proposed project may alter the risk of reversal for the project or other projects in the area.

(e) THIRD PARTY VALIDATION OF MONITORING AND QUANTIFICATION PLAN.—

(1) OFFSET VALIDATION.—A validation report for an offset project shall be completed by a verifier accredited in accordance with section 305(c)(3).

(2) SCOPE OF VALIDATION.—The Administrator, in conjunction with the Secretary of Agriculture, shall specify the required components of a validation report, including components covering—

(A) whether the information, data, and documentation contained within a monitoring and quantification plan are sufficient for the analysis required by the certified methodology;

(B) any errors, omissions, or disagreements with the quantification plan;

(C) any net emission reductions or increases in sequestration;

(D) any determination of additionality;

(E) any calculation of leakage;

(F) any assessment of reversal risk and required set-aside;

(G) if it is a sequestration project, whether the land use information is sufficient to track past land use for the required 10 year-period and if there is a significant deviation under subsection (f)(3);

(H) any potential conflicts of interests between a verifier and project developer; and

(I) any other provision that the Administrator considers to be necessary to achieve the purpose of this subtitle.

(f) GREENHOUSE GAS INITIATION CERTIFICATION.—

(1) IN GENERAL.—In reviewing a petition submitted under subsection (b), the Administrator, in conjunction with the Secretary of Agriculture, shall seek to exclude each activity that undermines the integrity of the offset program established under this subtitle, such as the conversion or clearing of land, or marked change in management regime, in anticipation of offset project initiation.

(2) GREENHOUSE GAS INITIATION CERTIFICATION REQUIREMENTS.—A greenhouse gas initiation certification developed under this subtitle shall include—

(A) in the case of an agricultural project—

(i) the estimated greenhouse gas flux or carbon stock for the offset project for each of the 4 complete calendar years preceding the effective date of the regulations promulgated under section 302; and

(ii) the estimated greenhouse gas flux or carbon stock for the offset project, averaged across each of the 4 calendar years preceding the effective date of the regulations promulgated under section 302.

(B) in the case of a forestland project, a procedure for use in determining whether the quantity of carbon sequestered on or in land, if a project was carried out, significantly changed during the 10-year period prior to initiation of the project.

(3) DETERMINATION OF SIGNIFICANT DEVIATION.—Based on standards developed by the Secretary of Agriculture and the Administrator—

(A) each greenhouse gas initiation certification submitted pursuant to this section shall be reviewed; and

(B) a determination shall be made as to whether, as a result of activities or behavior inconsistent with the purposes of this title, a significant deviation exists between the average annual greenhouse gas flux or carbon stock and the greenhouse gas flux or carbon stock for a given year.

(4) ADJUSTMENT FOR PROJECTS WITH SIGNIFICANT DEVIATION.—In the case of a significant deviation, the Administrator, in conjunction with the Secretary of Agriculture, shall adjust the number of allowances awarded in order to account for the deviation.

(g) DEVELOPMENT OF MONITORING AND QUANTIFICATION TOOLS FOR OFFSET PROJECTS.—

(1) IN GENERAL.—Subject to section 302, the Administrator and the Secretary of Agriculture for agricultural and forestry offset projects, shall develop standardized tools for use in the monitoring and quantification of changes in greenhouse gas fluxes or carbon stocks for each offset project type listed under subsections (b) and (c) of section 303.

(2) TOOL DEVELOPMENT.—The tools used to monitor and quantify changes in greenhouse gas fluxes or carbon stocks shall, for each project type, include applicable—

(A) statistically-sound field and remote sensing sampling methods, procedures, techniques, protocols, or programs;

(B) models, factors, equations, or look-up tables;

(C) guidelines established pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) for use in the quantification of forestry and agriculture offsets; and

(D) in the case of an agricultural and forestry offset project, certified protocols for technologies, instruments, and methods to use in the measurement, monitoring, and verification of emission reductions and increased sequestration, that shall—

(i) be developed and updated (by regulation) by the Secretary of Agriculture in conjunction with the Consortium for Agricultural Soil Mitigation of Greenhouse Gases;

(ii) includes scientifically-based determination of the uncertainty value to be assigned to the use of that technology, instrument, or method; and

(iii) be used by the Secretary of Agriculture to meet the requirements of section 303(e)(2)(C)(iii)(I) and subsection (i) of this section; and

(E) any other process or tool considered to be acceptable by the Administrator, in consultation with the Secretary of Agriculture for agricultural and forestry offset projects.

(h) DEVELOPMENT OF ACCOUNTING AND DISCOUNTING METHODS.—

(1) IN GENERAL.—The Secretary of Agriculture shall—

(A) develop standardized methods for use in accounting for additionality and uncertainty, estimating the baseline, and discounting for leakage for each offset project type listed under sections 303(b) and (c); and

(B) require that leakage be subtracted from reductions, destruction, avoidance in greenhouse gas emissions or increases in sequestration attributable to a project.

(2) ADDITIONALITY DETERMINATION AND BASELINE ESTIMATION.—The standardized methods used to determine additionality and establish baselines shall, for each project type, at a minimum—

(A) in the case of a biological sequestration project or agricultural emission reduction project, determine the greenhouse gas flux or enhanced carbon stock on the basis of similarity for—

(i) a specific time period; and

(ii) a specific geographic area; and

(B) in the case of a nonbiological sequestration project or emission reduction project, specify a selected time period.

(3) LEAKAGE.—The standardized methods used to determine and discount for leakage shall, at a minimum, take into consideration—

(A) the scope of the offset system in terms of activities and geography covered;

(B) the markets relevant to the offset project;

(C) in the case of offset projects not involving sequestration, emission intensity per unit of production, both inside and outside of the offset project; and

(D) a time period sufficient in length to yield a stable leakage rate.

(i) UNCERTAINTY FOR AGRICULTURAL AND FORESTRY PROJECTS.—

(1) IN GENERAL.—The Secretary of Agriculture shall develop standardized methods for use in determining and discounting for uncertainty, if appropriate, for offset project types listed under section 303(b).

(2) BASIS.—The standardized methods used to determine and discount for uncertainty shall be based on—

(A) the robustness and rigor of the methods used by an offset project representative

to monitor and quantify changes in greenhouse gas fluxes or carbon stocks; and

(B) the robustness and rigor of methods used by an offset project representative to determine additionality and leakage.

(j) ACQUISITION OF NEW DATA AND REVIEW OF METHODS FOR AGRICULTURAL AND FORESTRY PROJECTS.—The Secretary of Agriculture, in collaboration with the Consortium for Agricultural Soils Mitigation of Greenhouse Gases, shall—

(1) establish a comprehensive field sampling program to improve the scientific bases on which the standardized tools and methods developed under this section are based; and

(2) review and revise the standardized tools and methods developed under this section, based on—

(A) validation of existing methods, protocols, procedures, techniques, factors, equations, or models;

(B) development of new methods, protocols, procedures, techniques, factors, equations, or models;

(C) increased availability of field data or other datasets; and

(D) any other information identified by the Secretary of Agriculture that is necessary to meet the objectives of this subtitle.

(k) COORDINATION WITH OTHER PROVISIONS.—In determining the quantity of offset allowances to issue to an offset project, the Administrator, in conjunction with the Secretary of Agriculture, shall ensure that a project does not receive allowances under subtitle C and offset allowances for the same ton of greenhouse gases emissions reduced, destroyed, avoided, or sequestered.

**SEC. 305. OFFSET VERIFICATION AND ISSUANCE OF ALLOWANCES.**

(a) IN GENERAL.—An offset project representative may claim offset allowances for net emission reductions or increases in sequestration annually, after accounting for any necessary discounts in accordance with section 304, by submitting a verification report for any offset project to the Administrator, in conjunction with the Secretary of Agriculture.

(b) CREDITING PERIOD.—The crediting period for an approved offset project shall be—

(1) in the case of an offset project not involving afforestation or reforestation—

(A) a 10-year nonrenewable period; or

(B) a 7-year period, which may be renewed pursuant to the procedures under section 2404 for another 7 years not more than twice; and

(2) in the case of an offset project involving afforestation or reforestation, a period of 30 years for the 1 or more components of the project involving afforestation or reforestation.

(c) OFFSET VERIFICATION.—

(1) SCOPE OF VERIFICATION.—A verification report for an offset project shall be—

(A) completed by a verifier accredited in accordance with paragraph (3); and

(B) developed taking into consideration—

(i) the information and methodology contained within a monitoring and quantification plan;

(ii) data and subsequent analysis of the offset project, including—

(I) quantification of net emission reductions, destruction, or avoidance, or increases in sequestration;

(II) calculation of leakage; and

(III) identification of any reversals;

(iii) subject to the requirements of this subtitle, any other information identified by the Administrator as being necessary to achieve the purposes of this subtitle.

(2) VERIFICATION REPORT REQUIREMENTS.—The Administrator, in conjunction with the Secretary of Agriculture, shall specify the required components of a verification report, including—

(A) the quantity of offsets generated;

(B) the quantity of discounts applied;

(C) an assessment of quantitative errors or omissions (and the effect of the errors or omissions on offsets);

(D) any potential conflicts of interests between a verifier and an offset project representative or other project developer; and

(E) any other provision that the Administrator considers to be necessary to achieve the purposes of this subtitle.

(3) VERIFIER ACCREDITATION.—

(A) IN GENERAL.—The regulations promulgated pursuant to section 302 shall establish a process and requirements for accreditation by a third-party verifier that has no conflicts of interest.

(B) PUBLIC ACCESSIBILITY.—Each verifier meeting the requirements for accreditation in accordance with this paragraph shall be listed in a publicly-accessible database, which shall be maintained and updated by the Administrator, in conjunction with the Secretary of Agriculture.

(d) REGISTRATION AND ISSUING OF OFFSETS.—

(1) IN GENERAL.—Not later than 90 days after the date on which the Administrator receives a verification report required under subsection (b), the Administrator shall, in conjunction with the Secretary of Agriculture—

(A) determine whether the offsets satisfy the applicable requirements of this subtitle; and

(B) notify the offset project developer of that determination.

(2) AFFIRMATIVE DETERMINATION.—In the case of an affirmative determination under paragraph (1), the Administrator shall—

(A) register the offset allowances in accordance with this subtitle; and

(B) issue the offset allowances to the offset project representative.

(3) APPEAL AND REVIEW.—The Administrator shall establish mechanisms for the appeal and review of determinations made under this subsection.

**SEC. 306. TRACKING OF REVERSALS FOR SEQUESTRATION PROJECTS.**

(a) REVERSAL RISK FACTOR DETERMINATION.—

(1) IN GENERAL.—In approving a biological sequestration offset project pursuant to section 304, the Administrator, in consultation with the Secretary of Agriculture if applicable, shall determine for the project the percentage probability that the project will experience a reversal over at least a 30 year-period of time but not more than a 100 year-period, taking into account insurance standards for comparable activities in the agricultural or forestry industry, depending on the offset project type.

(2) APPLICATION OF THE REVERSAL RISK FACTOR.—When issuing offset allowances for a biological sequestration offset project pursuant to section 305, the Administrator shall transfer the quantity of allowances the Administrator otherwise would issue to the offset project representative for that calendar year a quantity that is equal to the product obtained by multiplying—

(A) the percentage probability determined for the project pursuant to paragraph (1); and

(B) the quantity of allowances issued for the project under section 304.

(b) ESTABLISHMENT OF BIOLOGICAL SEQUESTRATION OFFSET ALLOWANCE BUFFER RESERVE.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall establish a biological sequestration offset allowance buffer reserve.

(2) TRANSFER OF OFFSETS.—The Administrator shall convey to the buffer reserve the offset allowances that are transferred pursuant to subsection (a)(2).

(3) STATUS OF OFFSET ALLOWANCES IN RESERVE.—Offset allowances in the offset reserve may not be used to satisfy allowance submission requirements.

(c) REVERSAL CERTIFICATION.—

(1) REQUIRED CERTIFICATION.—The offset project representative for a biological sequestration offset project shall be required to submit to the Administrator a reversal certification not later than 1 year after the date of the approval of the project and once every 3 years thereafter for a period of 30 years after the date of approval of the offset project.

(2) REQUIREMENTS.—A reversal certification submitted in accordance with this subsection shall describe—

(A) whether any unmitigated reversal relating to the offset project has occurred during the year preceding the year for which the certification is submitted;

(B) the quantity of each unmitigated reversal; and

(C) whether the unmitigated reversal was intentional or unintentional.

(3) FAILURE TO PROVIDE CERTIFICATION.—The Administrator shall treat the failure of an offset project representative to provide a required certification pursuant to this subsection as an intentional reversal of the entire offset project under subsection (d)(3).

(d) USE OF OFFSET ALLOWANCE RESERVE.—

(1) ANNUAL REVERSAL REVIEW.—The Administrator, in conjunction with the Secretary of Agriculture, shall determine annually whether—

(A) any offset projects have experienced a reversal; and

(B) reversals that have occurred were intentional or unintentional, including through auditing of certifications provided pursuant to subsection (c).

(2) UNINTENTIONAL REVERSALS.—If the Administrator, in conjunction with the Secretary of Agriculture, determines that an unintentional reversal has occurred with respect to an offset project, the Administrator shall cancel a quantity of offset allowances in the biological sequestration offset allowance buffer reserve corresponding to the quantity of the reversal.

(3) EXCESS REVERSALS.—If the quantity of a reversal exceeds the quantity of allowances in the biological sequestration offset allowance buffer reserve, the offset project representative shall compensate the buffer reserve by submitting a quantity of offset allowances or emissions allowances equal to the difference between—

(A) the quantity of the reversal; and

(B) the quantity of allowances in the buffer reserve.

(e) INTENTIONAL REVERSALS.—If the Administrator, in conjunction with the Secretary of Agriculture, determines that an intentional reversal has occurred with respect to an offset project, the Administrator shall require the relevant offset project representative to submit to the buffer reserve a quantity of offset allowances or emission allowances equal to the quantity of the reversal.

(f) REVIEW OF BUFFER RESERVE.—

(1) IN GENERAL.—Not later than 5 years after date of enactment of this Act and every 5 years thereafter, the Administrator shall assess the adequacy of the content of offset allowances in the buffer reserve in light of the actual experience of reversals.

(2) ADJUSTMENT.—On the basis of the review conducted under paragraph (1), the Administrator may adjust the reversal risk factor determinations implemented under subsection (a).

**SEC. 307. EXAMINATIONS.**

(a) REGULATIONS.—The regulations promulgated pursuant to section 302 shall govern

the examination and auditing of offset allowances.

(b) REQUIREMENTS.—The governing regulations described in subsection (a) shall specifically consider—

(1) principles for initiating and conducting examinations;

(2) the type or scope of examinations, including—

(A) reporting and recordkeeping; and

(B) site review or visitation;

(3) the rights and privileges of an examined party; and

(4) the establishment of an appeals process.

**SEC. 308. TIMING AND THE PROVISION OF OFFSET ALLOWANCES.**

An offset project that commences operation on or after the effective date of the governing rules described in section 307(a) shall be eligible to generate offset allowances under this subtitle, and receive emission allowances under the program established pursuant to title VII, if the offset project meets the other applicable requirements of this subtitle.

**SEC. 309. OFFSET REGISTRY.**

In addition to the requirements established by section 304, an offset allowance registered under this subtitle shall be accompanied in the Registry by—

(1) a verification report submitted pursuant to section 305(a);

(2) if the offset project involves biological sequestration, a reversal certification submitted pursuant to section 306(b); and

(3) subject to the requirements of this subtitle, any other information identified by the Administrator, in conjunction with the Secretary of Agriculture, as being necessary to achieve the purposes of this subtitle.

**SEC. 310. ENVIRONMENTAL CONSIDERATIONS.**

(a) COORDINATION TO MINIMIZE NEGATIVE EFFECTS.—In promulgating regulations under this subtitle, the Administrator and the Secretary of Agriculture shall act (including by rejecting projects, if necessary) to avoid or minimize, to the maximum extent practicable, adverse effects on human health or the environment resulting from the implementation of offset projects under this subtitle.

(b) REPORT ON POSITIVE EFFECTS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in conjunction with the Secretary of Agriculture, shall submit to Congress a report detailing—

(1) the incentives, programs, or policies capable of fostering improvements to human health or the environment in conjunction with the implementation of offset projects under this subtitle; and

(2) the cost of those incentives, programs, or policies.

(c) COORDINATION TO ENHANCE ENVIRONMENTAL BENEFITS.—In promulgating regulations under this subtitle, the Administrator and the Secretary of Agriculture, in conjunction with the Secretary of Interior, shall—

(1) act to enhance and increase the adaptive capability of natural systems and resilience of those systems to climate change, including through the support of biodiversity, native species, and land management practices that foster natural ecosystem conditions; and

(2) coordinate actions taken under this paragraph, to the maximum extent practicable, with existing programs that have overlapping outcomes to maximize environmental benefits.

(d) USE OF NATIVE PLANT SPECIES IN OFFSET PROJECTS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations for the selection, use, and storage of native and nonnative plant materials—

(1) to ensure native plant materials are given primary consideration, in accordance with applicable Department of Agriculture guidance for use of native plant materials;

(2) to prohibit the use of Federal- or State-designated noxious weeds; and

(3) to prohibit the use of a species listed by a regional or State invasive plant council within the applicable region or State.

**SEC. 311. PROGRAM REVIEW.**

Not later than 5 years after the date of enactment of this Act, and periodically thereafter, the Administrator and the Secretary of Agriculture shall review and revise, as necessary to achieve the purposes of this Act, the regulations promulgated by each of the Administrator and the Secretary under this subtitle.

**Subtitle B—Offsets and Emission Allowances From Other Countries**

**SEC. 321. PRESIDENTIAL RULEMAKING.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the President, in conjunction with the Administrator and the Secretary of State, shall promulgate regulations approving the use of offset allowances and emission allowances from other countries under this subtitle.

(b) USE.—The regulations under subsection (a) shall provide that, beginning with calendar year 2012, owners and operators of covered entities may satisfy the allowance submission requirements of the owners and operators under section 202 for a calendar year by submitting a carbon dioxide equivalent quantity of offset and emission allowances of up to 1,000,000,000 tons.

(c) CARRYOVER.—If the sum of the carbon dioxide equivalent quantity of offset allowances and emission allowances submitted for a calendar year pursuant to this subtitle is less than 1,000,000,000 tons, notwithstanding subsection (b), the carbon dioxide equivalent quantity of offset allowances and emissions allowances that may be submitted by covered entities under this subtitle for the subsequent calendar year shall not exceed the sum of—

(1) 1,000,000,000 tons; and

(2) the difference between—

(A) 1,000,000,000 tons; and

(B) the carbon dioxide equivalent quantity of offset allowances and emission allowances submitted by covered entities for the preceding calendar year under this subtitle.

(d) REDUCTION.—Beginning in calendar year 2030, the Administrator may reduce the quantity of tons of carbon dioxide equivalents available for offsets under this section except that the quantity may not be reduced to less than 85 percent of the quantity of tons specified in subsection (b).

(e) LIMITATION OF OFFSETS FROM THE CLEAN DEVELOPMENT MECHANISM.—Notwithstanding any other provision of this Act, the owner or operator of a covered entity may satisfy not more than 5 percent of the total allowance submission requirement of the covered entity under section 202 for a calendar year by submitting offset allowances from projects or other activities registered under the Clean Development Mechanism of the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(f) OTHER REQUIREMENTS.—The regulations promulgated under this subtitle shall—

(1) ensure the development and continued health of a robust market for domestic offsets; and

(2) take into consideration—

(A) protocols adopted in accordance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, including the Clean Development Mechanism established under that Convention;

(B) the continuing international negotiations under the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992;

(C) the geographic distribution of offset projects;

(D) how the regulations can be designed to promote the adoption of emissions control policies by countries that do not have mandatory absolute tonnage limits in place as of the date of enactment of this Act;

(E) how the regulations can be designed to promote international offset activities in the economic interest of the United States, as evidenced by contributions to employment in the United States; and

(F) the benefits of ensuring that covered entities have certainty about and access to international offset allowances and emission allowances as promptly as practicable after the date of enactment of this Act and an ongoing basis thereafter.

(g) PRESIDENTIAL REVIEW IN 2030.—During calendar year 2030, the President shall submit to Congress a report that—

(1) analyzes the appropriateness of the 1,000,000,000-ton limitation on use of offset allowances and emission allowances under this subtitle; and

(2) provides recommendations as to whether and how to adjust the limitation.

**SEC. 322. OFFSET ALLOWANCES ORIGINATING FROM PROJECTS OR OTHER ACTIVITIES IN OTHER COUNTRIES.**

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the President, in conjunction with the Administrator and the Secretary of State, shall promulgate regulations establishing a system for registering and issuing offset allowances for projects or other activities that reduce, destroy, or avoid greenhouse gas emissions or increase sequestration of carbon dioxide in countries other than the United States.

(b) REQUIREMENTS.—The regulations promulgated pursuant to subsection (a) shall ensure that emission reductions represented by the allowances are real, additional, permanent, verifiable, and enforceable.

(c) ENTITY CERTIFICATION.—The owner or operator of a covered entity that submits an offset allowance issued pursuant to this section shall certify that the allowance has not been retired from use in the registry of the applicable foreign country.

(d) EXCLUSION.—Notwithstanding any other provision of this Act, activities that receive allowances under section 323 or 324 shall not be eligible to receive offset allowances under this section.

**SEC. 323. OFFSET ALLOWANCES FOR INTERNATIONAL FOREST CARBON ACTIVITIES.**

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations (including quality and eligibility requirements) for the use of offset allowances for international forest carbon activities.

(b) QUALITY AND ELIGIBILITY REQUIREMENTS.—The regulations promulgated pursuant to subsection (a) shall require that, in order to be approved for use under this section, offset allowances for an international forest carbon activity shall meet such quality and eligibility requirements as the Administrator may establish, including a requirement that—

(1) the activity shall be designed, carried out, and managed—

(A) in accordance with widely-accepted, environmentally sustainable forestry practices;

(B) to promote native species and conservation or restoration of native forests, if practicable, and to avoid the introduction of invasive nonnative species;

(C) in a manner that is supportive of the internationally-recognized rights of indigenous and other forest-dependent people living in the affected areas; and

(D) in a manner that enhances the capability, if consistent with the applicable laws in the country involved, of local communities to exercise the right of free prior informed consent regarding projects or other activities; and

(2) the emission reductions or sequestrations are real, permanent, additional, verifiable, and enforceable, with reliable measuring and monitoring and appropriate accounting for leakage.

(c) NATIONAL LEVEL ACTIVITIES.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of State, shall identify and periodically update a list of the names of countries that have—

(A) demonstrated the capacity to participate in international forest carbon activities at a national level, including—

(i) sufficient historical data on changes in national forest carbon stocks;

(ii) the technical capacity to monitor and measure forest carbon fluxes with an acceptable level of uncertainty; and

(iii) the institutional capacity to reduce emissions from deforestation and degradation;

(B) capped greenhouse gas emissions or otherwise established a credible national baseline or emission reference baseline;

(C) achieved national-level reductions of deforestation and degradation below a historical reference baseline, taking into consideration the average annual deforestation and degradation rates of the country during a period of at least 5 years;

(D) implemented an emission reduction program for the forest sector; and

(E) demonstrated those reductions using remote sensing technology, taking into consideration relevant international standards.

(2) PERIODIC REVIEW OF NATIONAL LEVEL REDUCTIONS IN DEFORESTATION AND DEGRADATION.—The Administrator, in consultation with the Secretary of State, shall periodically review and update the list of the names of countries included under paragraph (1).

(3) CREDITING AND ADDITIONALITY.—A verified reduction in greenhouse gas emissions from deforestation and forest degradation under a cap or resulting from a nationwide emissions reference scenario described in paragraph (1)(B) shall be—

(A) eligible for offset allowances; and

(B) considered to satisfy the additionality criterion.

(d) SUBNATIONAL LEVEL ACTIVITIES.—With respect to foreign countries other than the foreign countries described in subsection (c), the Administrator—

(1) shall recognize project-scale international forest carbon activities as eligible for offset allowances, subject to the quality criteria for forest carbon activities described in subsection (b); and

(2) is encouraged to identify other incentives, including economic and market-based incentives, to encourage developing countries with largely intact native forests to protect those forests.

(e) OTHER INTERNATIONAL FOREST CARBON ACTIVITIES.—An international forest carbon activity other than a reduction in deforestation or forest degradation shall be eligible for offset allowances under this section, subject to the eligibility requirements and quality criteria for forest carbon activities described in subsection (a) or other regulations promulgated pursuant to this Act.

(f) DISCOUNT.—

(1) INITIAL DISCOUNT.—If, after the date that is 10 years after the date of enactment of this Act, the Administrator determines that a foreign country that, in the aggregate, generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions has not capped those emissions, established an emissions reference scenario based on historical data, or otherwise reduced total forest emissions of that foreign country, the Administrator shall apply a discount to distributions of offset allowances to that country under this section.

(2) SUBSEQUENT DISCOUNT.—If, after the date that is 15 years after the date of enactment of this Act, the Administrator determines that a foreign country that, in the aggregate, generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions has not capped those emissions, established an emissions reference scenario based on historical data, or otherwise reduced total forest emissions of that foreign country, the Administrator shall cease distributions of offset allowances to that country under this section.

(g) FACILITY CERTIFICATION.—The owner or operator of a covered entity that submits an offset allowance generated under this section shall certify that the offset allowance has not been retired from use in any greenhouse gas emissions registry.

(h) MAXIMUM USE.—The regulations promulgated pursuant to this section shall ensure that offset allowances are not issued for sequestration or emission reductions that have been used or will be used by any other country for compliance with a domestic or international obligation to limit or reduce greenhouse gas emissions.

(i) REVIEWS.—Not later than 3 years after the date of enactment of this Act and every 5 years thereafter, the Administrator, in consultation with the Secretary of State, shall conduct a review of the activities undertaken pursuant to this subtitle, including the effects of the activities on indigenous and forest-dependent peoples residing in affected areas.

**SEC. 324. EMISSION ALLOWANCES FROM OTHER COUNTRIES WITH EMISSIONS CAPS.**

(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the President, in conjunction with the Administrator and the Secretary of State, shall promulgate regulations, taking into consideration protocols adopted in accordance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992, approving the use in the United States of emission allowances issued by countries other than the United States.

(b) REQUIREMENTS.—The regulations promulgated pursuant to subsection (a) shall require that, in order to be approved for use in the United States—

(1) an emission allowance shall have been issued by a foreign country pursuant to a governmental program that imposes mandatory absolute tonnage limits on greenhouse gas emissions from the foreign country, or 1 or more industry sectors in that country, pursuant to protocols described in subsection (a); and

(2) the governmental program be of comparable stringency to the program established by this Act, including comparable monitoring, compliance, and enforcement.

(c) FACILITY CERTIFICATION.—The owner or operator of a covered facility that submits an international allowance under this subtitle shall certify that the allowance has not been retired from use in the registry of the applicable foreign country.

**SEC. 325. EFFECT OF SUBTITLE.**

Nothing in this subtitle supersedes, limits, or otherwise affects any restriction imposed by Federal law (including regulations) on any interaction between an entity located in the United States and an entity located in a foreign country.

**Subtitle C—Agriculture and Forestry Program in the United States**

**SEC. 331. ALLOCATION.**

Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall allocate to the Secretary of Agriculture, for the program established pursuant to section 332, 5 percent of the emission allowances established pursuant to section 201(a) for that calendar year.

**SEC. 332. AGRICULTURE AND FORESTRY PROGRAM.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations establishing a program for distributing emission allowances allocated pursuant to section 331 to entities in the agriculture and forestry sectors of the United States (including entities engaged in organic farming—

(1) as a reward for—

(A) achieving reductions in greenhouse gas emissions from the operations of the entities;

(B) achieving increases in greenhouse gas sequestration on land owned or managed by the entities; and

(C) conducting pilot projects or other research regarding innovative use in measuring—

(i) greenhouse gas emission reductions;

(ii) sequestration; or

(iii) other benefits and associated costs of the pilot projects;

(2) to place in a buffer reserve pursuant to section 306 or otherwise use to carry out this section; and

(3) to assist with the increased costs of fertilizer in the United States attributed to increased costs of natural gas due to fuel switching as a result of this Act.

(b) NEW METHODOLOGY INCUBATOR.—

(1) IN GENERAL.—The Secretary of Agriculture shall ensure that, during any 5-year period, the average annual percentage of the quantity of emission allowances established for a calendar year that is distributed to entities under the program established under paragraph (2) specifically for creating methodologies, tools, and support for the development and deployment of new project types shall be at least 0.25 percent.

(2) SUPPORT FOR INNOVATION.—

(A) ACQUISITION OF NEW DATA, IMPROVEMENT OF METHODOLOGIES, AND DEVELOPMENT OF NEW TOOLS FOR DESIGNATED OFFSET ACTIVITY TYPES.—The Secretary of Agriculture shall establish a comprehensive field sampling and pilot project program to improve the scientific data and calibration of standardized tools and methodologies that—

(i) are used to measure greenhouse gas reductions or sequestration and baseline for categories of activities not covered by an emission limitation under this Act; and

(ii) are likely to provide significant emission reductions or sequestration.

(B) TARGETED SUPPORT FOR DEVELOPMENT AND DEPLOYMENT OF NEW TECHNOLOGIES.—

(i) IN GENERAL.—The Secretary of Agriculture shall establish a program for development and deployment of new technologies and methods in greenhouse gas reductions or sequestration for activities not covered by an emission limitation under this Act.

(ii) SELECTION; FUNDING.—In carrying out the program under clause (i), the Secretary of Agriculture shall—

(I) select activities for participation in the program based on—

(aa) the potential emission reductions or sequestration of the activities; and

(bb) a market penetration review; and

(II) provide funding for a select number of projects—

(aa) to cover research on technologies and other barriers, prototypes, first-of-a-kind risk coverage, and initial market barriers; and

(bb) under limited categories of activities that are dependent on forward progress.

(c) REQUIREMENT.—The Secretary of Agriculture shall distribute emission allowances under this section in a manner that ensures that entities in the program under this section do not receive more compensation for emission reductions under this program than the entities would receive for the same reductions through an offset project under subtitle A.

(d) COORDINATION WITH SUBTITLE A.—

(1) IN GENERAL.—Subject to paragraph (2), an individual or entity carrying out an activity under this subtitle that also qualifies as an offset project pursuant to subtitle A may petition (pursuant to the regulations under subtitle A) to receive offset allowances for reductions, destruction, avoidance, or sequestration of greenhouse gas emissions for which the individual or entity does not receive emission allowances under this section.

(2) NONDUPLICATION.—A project may not receive both allowances under this subtitle and offset allowances for the same ton of greenhouse gas emissions reduced, destroyed, avoided, or sequestered.

Beginning on page 424, strike line 4 and all that follows through page 438, line 2, and insert the following:

**SEC. 1311. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) changes in land use patterns and forest sector emissions account for approximately 20 percent of global greenhouse gas emissions;

(2) land conversion and deforestation are 2 of the largest sources of greenhouse gas emissions in the developing world, comprising approximately 40 percent of the total greenhouse gas emissions of the developing world;

(3) with sufficient data, deforestation and forest degradation rates and forest carbon stocks can be measured with an acceptable degree of uncertainty;

(4) encouraging reduced deforestation and reduced forest degradation in foreign countries could—

(A) provide critical leverage to encourage voluntary participation by developing countries in emission limitation regimes;

(B) facilitate greater overall reductions in greenhouse gas emissions than otherwise would be practicable; and

(C) substantially benefit biodiversity, conservation, and indigenous and other forest-dependent people in developing countries;

(5) in addition to forest carbon activities that can be readily measured, monitored, and verified through national-scale programs and projects, there is great value in reducing emissions and sequestering carbon through forest carbon projects in countries that lack the institutional arrangements to support national-scale accounting of forest carbon stocks; and

(6) providing emission allowances in support of activities in countries that lack fully developed institutions for national-scale accounting could help to build capacity in those countries, sequester additional carbon, and increase participation by developing countries in international climate agreements.

(b) PURPOSE.—The purpose of this subtitle is to reduce greenhouse gas emissions by reducing deforestation and forest degradation in foreign countries in a manner that reduces the costs imposed by this Act on covered entities in the United States.

**SEC. 1312. INTERNATIONAL FOREST CARBON ACTIVITIES PROGRAM.**

(a) ESTABLISHMENT.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations to establish programs or recognize existing programs under which the Administrator shall provide emission allowances allocated pursuant to subsections (b) and (c) to assist developing countries in the efforts of the developing countries to achieve emissions reductions or increased sequestration of carbon dioxide from international forest carbon activities.

(b) ALLOCATION.—Not later than 330 days before January 1 of each of calendar years 2012 through 2050, the Administrator shall allocate for distribution under this section 1 percent of the aggregate quantity of emission allowances established for the applicable calendar year pursuant to section 201(a).

(c) EARLY ACTION.—Not later than 2 years after the date of enactment of this Act, the Administrator shall allocate for early action distribution for each of calendar years 2010 and 2011 not more than 10 percent of the aggregate quantity of emission allowances allocated under subsection (b) for each of calendar years 2012 through 2022.

(d) CARRYOVER.—If the sum of the emission allowances for a calendar year is not allocated for distribution in the calendar year, the Administrator shall carry over to the next calendar year the residual emission allowances.

(e) ENSURING MARKET READINESS IN DEVELOPING COUNTRIES.—

(1) IN GENERAL.—The Administrator shall—

(A) set aside a portion of the allowances to be allocated under subsections (b) and (c) for the purpose of ensuring market readiness in forested developing countries; and

(B) auction those allowances with the proceeds deposited into a market readiness account.

(2) ELIGIBILITY FOR PROCEEDS.—The regulations promulgated pursuant to subsection (a) shall delineate the requirements for developing countries to be eligible to receive proceeds from the auction of emission allowances under paragraph (1) to be used for the preparation of a national reduced deforestation and forest degradation strategy (referred to in this section as a ''REDD strategy''), including—

(A) developing a reliable estimate of the national forest carbon stocks and sources of forest emissions of the developing country;

(B) defining the national emission reference baseline for the developing country based on past emission rates;

(C) specifying options for reducing emissions; and

(D) implementing mechanisms that will support policies, programs, and projects to reduce emissions.

(f) INCENTIVE PAYMENTS FOR LOW-COST EMISSION REDUCTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the regulations promulgated pursuant to subsection (a) shall delineate the requirements for forested developing countries or other entities to be eligible to receive emission allowances under subsections (b) and (c) to implement the national REDD strategy of the countries or to implement low-cost emission reduction projects in the forest sector.

(2) REQUIREMENTS.—Under the regulations promulgated under paragraph (1)—

(A) emission allowances under this section shall be awarded in a manner that favors—

(i) achievement of the greatest quantity of carbon sequestration or emission reductions for the lowest cost; and

(ii) broad geographical distribution of projects;

(B) no allowances for emission reduction under this section shall be awarded to countries, or entities for projects in countries, that meets the criteria established under section 1313(c)(1)(A), as determined by the Administrator, after the 2-year period beginning on the date the Administrator determines that those criteria apply;

(C) no allowances shall be issued in a calendar year beginning more than 5 years after the date of enactment of this Act to a project or activity in a country that generates greenhouse gas emissions accounting for more than 1 percent of global greenhouse gas emissions;

(D) no allowances shall be issued in a calendar year beginning more than 10 years after the date of enactment of this Act to a project or activity in a country that generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions; and

(E) unless the Administrator determines that provision of allowances to a project or activity in a country that would otherwise be subject to the exclusions in subparagraph (C) or (D) is in the interest of building needed capacity or reducing international leakage, allowances may be issued to the project or activity subject to other criteria in this subsection.

(g) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations establishing eligibility requirements for the allocation of emission allowances under this subsection for international forest carbon activities, including requirements that those activities shall be designed, carried out, and managed—

(A) in accordance with widely-accepted environmentally sustainable forestry practices;

(B) to promote native species and restoration of native forests, if practicable, and to avoid the introduction of invasive nonnative species;

(C) in a manner that is supportive of the internationally-recognized rights of indigenous and other forest-dependent people living in the affected areas; and

(D) in a manner that enhances the capability, if consistent with the applicable laws in the country involved, of local communities to exercise the right of free, prior informed consent regarding projects or other activities.

(2) QUALITY CRITERIA FOR INTERNATIONAL FOREST CARBON ALLOCATIONS.—The regulations promulgated pursuant to paragraph (1) shall include requirements intended to ensure that the international forest carbon activity for which emission allowances are provided under this section results in real, permanent, additional, verifiable, and enforceable emission reductions, with reliable measuring and monitoring and appropriate accounting for leakage.

(h) PEATLAND AND OTHER NATURAL LAND THAT SEQUESTER CARBON.—The Administrator may provide emission allowances under this section for a project for storage of carbon in peatland or other natural land if the Administrator determines that—

(1) the peatland or other natural land is capable of storing carbon; and

(2) the project for storage of carbon in the peatland or other natural land is capable of meeting the quality criteria described in subsection (a).

**SEC. 1313. LIMITATION ON DOUBLE COUNTING.**

Notwithstanding any other provision of this Act, activities that receive credit under

subtitle B of title III shall not be eligible to receive emission allowances under this subtitle.

**SEC. 1314. EFFECT OF SUBTITLE.**

Nothing in this subtitle supersedes, limits, or otherwise affects any restriction imposed by Federal law (including regulations) on any interaction between an entity located in the United States and an entity located in a foreign country.

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**SA 4950.** Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. WYDEN, and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 412 and insert the following:

**SEC. 412. CARBON MARKET OVERSIGHT AND REGULATION.**

(a) DELEGATION OF AUTHORITY BY PRESIDENT.—The President, taking into consideration the recommendations of the Working Group established by subsection (b), shall delegate to members of the Working Group and the heads of other appropriate Federal entities the authority to promulgate regulations to enhance the integrity, efficiency, orderliness, fairness, and competitiveness of the development and operation by the United States of any financial market for emission allowances, based on the following core principles:

(1) The market shall—

(A) be designed to prevent, detect, and remedy fraud and manipulation relating to the trading of emission allowances and related markets, which could potentially arise from many sources, including—

(i) the concentration of market power within the control of a limited number of individuals or entities; and

(ii) the abuse of material, nonpublic information;

(B)(i) be appropriately transparent, with real-time reporting of quotes and trades; and

(ii) make information on price, volume, and supply, and other important statistical information available to the public on fair, reasonable, and nondiscriminatory terms;

(C) be subject to appropriate recordkeeping and reporting requirements regarding transactions; and

(D) have the confidence of Federal and State regulators, investors, and covered entities subject to compliance obligations under this Act.

(2) The market shall—

(A) function smoothly and efficiently, generating prices that accurately reflect supply and demand for emission allowances;

(B) be designed to prevent excessive speculation that could cause sudden or unreasonable fluctuations or unwarranted changes in—

(i) the price of emission allowances; or

(ii) prices in related markets; and

(C) promote just and equitable principles of trade.

(3) Market transparency measures shall be designed to prevent the disclosure of information the disclosure of which would be detrimental to the operation of an effective emission allowance market.

(4) The market shall be subject to effective and comprehensive oversight, which integrates strong enforcement mechanisms, including mechanisms for cooperation with other national and comparable international oversight regimes.

(5) There shall be an appropriate interagency forum—

(A) for ongoing assessment of emerging regulatory matters and information sharing; and

(B) to ensure regulatory coordination of the market.

(6) The market shall establish an equitable system for best execution of customer orders.

(7) The market shall protect investors and the public interest.

(8) To reduce the potential threats of market manipulation and the concentration of market power, the market shall be subject to position limitations or position accountability measures, as necessary and appropriate.

(b) ESTABLISHMENT.—There is established an interagency working group, to be known as the ''Carbon Markets Working Group'' (referred to in this section as the ''Working Group'').

(c) MEMBERSHIP.—The Working Group shall be composed of the following members (or their designees):

(1) The Administrator, who shall serve as Chairperson of the Working Group.

(2) The Secretary of the Treasury.

(3) The Chairman of the Securities and Exchange Commission.

(4) The Chairman of the Commodity Futures Trading Commission.

(5) The Chairman of the Federal Energy Regulatory Commission.

(6) The Chairperson of the Board.

(7) Such other Executive branch officials as may be appointed by the President.

(d) DUTIES.—

(1) IDENTIFICATION OF ISSUES AND APPROPRIATE ACTIVITIES.—

(A) IN GENERAL.—The Working Group shall identify—

(i) the major issues relating to the integrity, efficiency, orderliness, fairness, and competitiveness of the development by the United States of any financial market for emission allowances under the cap-and-trade system for emission allowances established under this Act;

(ii) any relevant recommendations provided to the Working Group by Federal, State, or local governments, organizations, individuals, and entities; and

(iii) the activities, such as market regulation, policy coordination, and contingency planning, that are appropriate to carry out those recommendations.

(B) CONSULTATION.—In identifying appropriate activities under subparagraph (A)(iii), the Working Group shall consult with representatives of, as appropriate—

(i) various information exchanges and clearinghouses;

(ii) self-regulatory entities, securities exchanges, transfer agents, and clearing entities;

(iii) participants in the emission allowance trading market, including covered entities;

(iv) State regulatory authorities; and

(v) other Federal entities, including—

(I) the Federal Reserve; and

(II) the Federal Trade Commission.

(2) STUDY.—The Working Group shall conduct a study of the major issues relating to the regulation of the emission allowance trading market and other carbon markets.

(3) REPORT.—Not later than 270 days after the date of enactment of this Act, and annually thereafter, the Working Group shall submit to the President and Congress a report describing—

(A) the progress made by the Working Group;

(B) recommendations of the Working Group regarding any regulations proposed pursuant to subsection (a);

(C) recommendations for additional legislative action, if necessary; and

(D) a timetable for the implementation of the new regulations to ensure that the regulations take effect before the effective date of regulations governing the emission allowance trading system.

(4) MEMORANDA OF UNDERSTANDING.—Not later than 270 days after the date of enactment of this Act, the Administrator shall enter into a memorandum of understanding with the head of each appropriate Federal entity (including each appropriate Federal entity represented by a member of the Working Group, as applicable) relating to regulatory and enforcement coordination, information sharing, and other related matters to minimize duplicative or conflicting regulatory efforts.

(5) REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the heads of other appropriate Federal entities to which the President has delegated regulatory authority under subsection (a) shall promulgate regulations in accordance with subsection (a).

(e) AUTHORITIES.—In promulgating and implementing regulations pursuant to this section, the promulgating Federal agencies shall have authorities equivalent to the authorities of those agencies under existing law.

(f) ENFORCEMENT.—Regulations promulgated under this section shall—

(1) be fully enforceable and subject to such fines and penalties as are provided under the laws (including regulations) administered by the Federal agency that promulgated the regulations under this section; and

(2) for the purpose of enforcement, in accordance with section 1722, be considered to have been promulgated pursuant to this Act.

(g) ADMINISTRATION.—

(1) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Working Group may secure directly from any Federal agency such information as the Working Group considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Working Group, the head of the agency shall provide the information to the Working Group.

(2) COMPENSATION OF MEMBERS.—A member of the Working Group who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(3) ADMINISTRATOR SUPPORT.—To the extent permitted by law and subject to the availability of appropriations, the Administrator shall provide to the Working Group such administrative and support services as are necessary to assist the Working Group in carrying out the duties described in subsection (d).

(h) EFFECT OF SECTION.—Nothing in this section limits or restricts any regulatory or enforcement authority of a Federal entity as in effect on the date of enactment of this Act.

(i) PROHIBITIONS.—

(1) IN GENERAL.—It shall be unlawful for any individual or entity—

(A) to knowingly provide to the President (or a designee) any false information relating to the price or quantity of emission allowances sold, purchased, transferred, banked, or borrowed by the individual or entity, with the intent to fraudulently affect data complied by the Administrator or any other entity;

(B) directly or indirectly, to use in connection with the purchase or sale of an emission allowance any manipulative or deceptive device or contrivance (within the meaning of section 10(b) of the Securities and Exchange Act of 1934 (15 U.S.C. 78j(b)), in contravention

of such regulations as are promulgated to protect public interest or consumers; or

(C) to cheat or defraud, or to attempt to cheat or defraud, another market participant, client, or customer.

(2) REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the President shall delegate the authority to promulgate regulations in accordance with paragraph (1) to 1 or more entities represented in the Working Group.

(3) PENALTIES.—An individual or entity that violates an applicable provision of paragraph (1) or a regulation promulgated pursuant to paragraph (2) shall be subject to a fine of not more than $1,000,000 or imprisonment for not more than 10 years, or both, for each such violation.

(4) EFFECT OF SUBSECTION.—Nothing in this subsection establishes any private right of action.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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**SA 4951.** Mrs. FEINSTEIN (for herself, Ms. SNOWE, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 37, strike line 6 and all that follows through page 38, line 7, and insert the following:

(1) in new or renovated buildings that demonstrate exemplary performance, which shall, at a minimum, place the energy performance of the building in the top 25 percent for similar new or renovated buildings with reference to an established performance benchmarking metric as determined under the regulations promulgated pursuant to subsection (d); and

(2) in retrofitted existing buildings that demonstrated substantial improvement in the energy performance of the buildings by achieving a minimum increase of 30 percent in energy performance as measured by the benchmarking tool of the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), or an equivalent improvement using an established performance benchmarking metric as determined under the regulations promulgated pursuant to subsection (d).

(c) PRIORITY.—In providing grants under this section, the Administrator shall give priority to projects that result in measurable greenhouse gas reduction benefits not encompassed within the metrics of the Energy Star program referred to in subsection (b)(1), including at a minimum benefits such as location efficiency and reductions in embodied energy of construction materials.

On page 38, line 25, insert ‘‘, manufacturers,’’ after ‘‘retailers’’.

On page 39, line 14, insert ‘‘, manufacturer,’’ after ‘‘retailer’’.

On page 39, line 18, insert ‘‘, manufacturer,’’ after ‘‘retailer’’.

On page 40, line 6, insert ‘‘, manufacturer,’’ after ‘‘retailer’’.

On page 40, line 9, strike ‘‘, not to exceed 10 years,’’.

On page 63, between lines 7 and 8, insert the following:

**SEC. 127. IMPACT EVALUATION AND MEASUREMENT AND VERIFICATION RULES.**

(a) DEFINITIONS.—In this section:

(1) IMPACT EVALUATION.—The term ‘‘impact evaluation’’ means the evaluation of the energy savings and greenhouse gas emissions reductions induced by a specific program, project, or policy.

(2) MEASUREMENT AND VERIFICATION.—The term ‘‘measurement and verification’’ means data collection, monitoring, and analysis associated with the calculation of total energy savings and greenhouse gas emissions reductions from individual sites or projects.

(b) RULES.—

(1) IN GENERAL.—The Administrator, in consultation with States, utilities, and other stakeholders, shall develop and enforce uniform rules for impact evaluation, measurement, and verification of the energy savings and avoided greenhouse gas emissions of energy efficiency programs and projects.

(2) SCOPE.—The rules shall be used by States, utilities, and other entities receiving allowances or allowance proceeds under this Act based on energy savings and greenhouse gas emission reductions or for use in energy efficiency programs or projects.

(c) REQUIREMENTS.—

(1) ENFORCEABILITY, VERIFIABILITY, AND ADDITIONALITY.—To the maximum extent practicable, the Administrator shall develop rules under subsection (b) so that the rules—

(A) are enforceable; and

(B) give reasonable assurance that energy savings and avoided greenhouse gas emissions from measures implemented under the scope of this section are verifiable and would not have occurred without the allowances or proceeds under this Act.

(2) ADDITIONAL CHARACTERISTICS.—To the maximum extent practicable, the Administrator shall ensure that rules under subsection (b)—

(A) are complete and transparent;

(B) balance risk management, certainty of estimated impacts, and implementation costs; and

(C) provide sufficient direction relating to methodologies and assumptions, including measure persistence, market transformation impacts, and the extent to which the savings would have occurred without the allowances or proceeds under this Act, to ensure reasonable uniformity among various States and entities and consistency in results.

(3) USE OF EXISTING PROTOCOLS.—To the maximum extent practicable, in developing rules under subsection (b), the Administrator shall consider and harmonize with existing domestic and international protocols.

(d) REQUIREMENTS.—The Administrator shall promulgate the rules under subsection (b) not later than 2 years after the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

On page 215, between lines 9 and 10, insert the following:

(iii) CONSUMER AND BUSINESS PROGRAMS.—

(I) IN GENERAL.—Except as otherwise provided in this clause, each local distribution entity, with oversight from the appropriate State utility commission in accordance with State law, shall use at least 30 percent of the proceeds from the sale of emission allowances to fund programs to encourage, assist, and provide incentives to consumers and businesses to improve energy efficiency and reduce energy use, with an emphasis on consumers and businesses that are not directly receiving energy-efficiency assistance under other provisions of this Act.

(II) DESIGNATION.—In each State in which the State designates a program administrator other than the local distribution entity, the local distribution entity shall transfer the funds described in subclause (I) to the program administrator designated by the State.

(III) EXCEPTION.—Notwithstanding subclause (I), a regulatory agency with authority over a local distribution entity (including a governing board of a municipally owned or cooperatively owned local distribution company) may reduce the percent in subclause (I) if the agency determines that the local distribution entity is able to maximize cost-effective energy savings at a lower percentage.

On page 216, line 7, strike ‘‘and’’ at the end.

On page 216, line 14, strike the period at the end and insert ‘‘; and’’.

On page 216, between lines 14 and 15, insert the following:

(D) the amount of energy saved or generated as a result of energy efficiency, demand response, and distributed generation programs supported by sales of emission allowances, and a description of the methodologies used to estimate the savings.

On page 221, strike line 6 and insert the following:

(c) USE.—

(1) IN GENERAL.—During any calendar year, a State shall

On page 221, between lines 10 and 11, insert the following:

(2) PRIORITY.—In carrying out this section, States shall give priority to assisting manufacturing and coal industries to improve the energy efficiency of those industries.

On page 242, strike lines 1 through 6 and insert the following:

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations establishing a system for annually scoring achievements by States in reducing greenhouse gas emissions and energy use over the preceding 3 years, including through State policies such as climate policies, building energy codes, and ratepayer-funded energy efficiency programs.

(2) REQUIREMENT.—Scoring under paragraph (1) shall—

(A) be designed to encourage State policies and programs to reduce greenhouse gas emissions and increase energy efficiency; and

(B) reward existing State policies and programs.

(3) CREDIT FOR LONG-TERM SAVINGS.—A significant portion of the scoring for calendar years 2012 through 2018 shall recognize expected reductions in greenhouse gas emissions and energy use in States due to adoption of, and compliance with, building energy codes.

Beginning on page 284, strike line 16 and all that follows through page 285, line 11, and insert the following:

(1) in new or renovated buildings that demonstrate exemplary performance, which shall, at a minimum, place the energy performance of the building in the top 25 percent for similar new or renovated buildings with reference to an established performance benchmarking metric selected by the Climate Change Technology Board; and

(2) in retrofitted existing buildings that demonstrated substantial improvement in the energy performance of the buildings by achieving a minimum increase of 30 percent in energy performance as measured by the benchmarking tool of the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), or an equivalent improvement using an established performance benchmarking metric selected by the Climate Change Technology Board.

(c) PRIORITY.—In distributing the allowances, the Administrator shall give priority to projects that result in measurable greenhouse gas reduction benefits not encompassed within the metrics of the Energy Star

program referred to in subsection (b)(1), including at a minimum benefits such as location efficiency and reductions in embodied energy of construction materials.

On page 286, line 7, insert '', manufacturers,'' after ''retailers''.

On page 286, line 9, insert '', manufacturers,'' after ''retailers''.

On page 286, line 16, insert ''and distribution of the reward among entities eligible for the reward'' after ''product-type''.

On page 286, line 21, insert '', manufacturer,'' after ''retailer''.

On page 287, line 10, insert '', manufacturer,'' after ''retailer''.

On page 287, line 13, strike '', but not to exceed 10 years,''.

On page 288, strike lines 17 through 24 and insert the following:

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Climate Change Technology Board shall establish and carry out a program, to be known as the ''Efficient Manufacturing Program'', to distribute the emission allowances allocated pursuant to section 821 among owners and operators of manufacturing facilities in the United States, as reward for achieving high levels of energy and resource use efficiency in the operations and processes of the owners and operators.

(2) MEASUREMENT.—Energy and resource use efficiency improvements described in paragraph (1) shall be measured relative to the energy and resource use that would have happened if not for the Efficient Manufacturing Program.

On page 292, between lines 16 and 17, insert the following:

**Subtitle E—Energy-Efficient Products and Services Deployment Program**

**SEC. 841. ALLOCATION.**

Not later than 330 days before the beginning of each of calendar years 2012 through 2050, the Administrator shall allocate to the Climate Change Technology Board established by section 431, 0.15 percent of the emission allowances established pursuant to section 201(a) for that calendar year, for the purpose of conducting the Energy-Efficient Products and Services Deployment Program established under section 842.

**SEC. 842. ENERGY-EFFICIENT PRODUCTS AND SERVICES DEPLOYMENT PROGRAM.**

(a) ESTABLISHMENT.—There is established an energy-efficient products and services deployment program to provide design, building construction, product installation, management, or implementation of other strategies to improve energy productivity by individuals, entities, Federal, State, or local government agencies, and consortia of businesses and organizations that demonstrate strong capability to capture energy savings described in subsection (b).

(b) ENERGY SAVINGS.—At a minimum, energy savings captured under subsection (a) shall be energy savings—

(1) that have not been and, as determined by the Climate Change Technology Board, are not expected to be otherwise captured under this Act;

(2) that span multiple States; and

(3) the results of which can be accounted for and are distinguishable from those of other programs under this Act.

(c) INCENTIVES.—The program established under subsection (a) shall deliver incentives for individuals and entities in the private sector to pursue, innovate, and compete for energy efficiency improvement opportunities.

(d) CRITERIA.—The Climate Change Technology Board, in consultation with the Administrator and other appropriate agencies, shall establish objective eligibility criteria for energy efficiency projects to be funded under this section, including criteria to ensure that the projects are verified and would not have otherwise been carried out without the award of funds under this section.

(e) CONTRACTS.—An award for deploying 1 or more highly energy-efficient products or services that meet the criteria established under this section shall be in the form of a contract to provide an annual payment for verified energy savings in an amount equal to the product obtained by multiplying—

(1) the amount bid by the individual or entity proposing to deploy the highly energy-efficient product or service; and

(2) the energy savings during the projected useful life of the 1 or more highly energy-efficient products or services, but not to exceed 15 years, as determined by the Climate Change Technology Board.

On page 303, strike line 23 and insert the following:

(a) IN GENERAL.—The Administrator shall deposit all proceeds of auc-

On page 304, between lines 3 and 4, insert the following:

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the funds described in subsection (a) shall be used for programs that are expected to reduce the emission of greenhouse gases.

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**SA 4952.** Mrs. FEINSTEIN (for herself, Ms. KLOBUCHAR, Ms. SNOWE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, strike lines 7 to 14 and insert the following:

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations establishing a Federal greenhouse gas registry that—

(1) builds upon the regulations completed pursuant to the mandate contained in the sixth paragraph of ''Administrative Provisions, Environmental Protection Agency'' of Division F of P.L. 110–161;

(2) makes changes necessary to achieve the purposes described in section 101; and

(3) requires emission reporting to begin by not later than calendar year 2011.

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**SA 4953.** Mr. MCCONNELL (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 6 and 7, insert the following:

**SEC. 530. ACTION UPON HIGHER GASOLINE PRICES CAUSED BY THIS ACT.**

(a) DETERMINATION OF HIGHER GASOLINE PRICES CAUSED BY THIS ACT.—Not less than annually, the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator, shall determine whether implementation of this Act has caused the average retail price of gasoline to increase since the date of enactment of this Act.

(b) ADMINISTRATOR ACTION.—Notwithstanding any other provision of this Act, upon a determination under subsection (a) of higher gasoline prices caused by this Act, the Administrator shall suspend such provisions of this Act as the Administrator determines are necessary until implementation of the provisions no longer causes a gasoline price increase.

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**SA 4954.** Mr. JOHNSON (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 193, strike the table that appears before line 1 and insert the following:

| Calendar year | Percentage for distribution among fossil fuel-fired electricity generators in United States |
|---|---|
| 2012 | 20 |
| 2013 | 20 |
| 2014 | 20 |
| 2015 | 20 |
| 2016 | 19.75 |
| 2017 | 19.5 |
| 2018 | 19.25 |
| 2019 | 18.25 |
| 2020 | 17 |
| 2021 | 15.5 |
| 2022 | 13.25 |
| 2023 | 12.25 |
| 2024 | 11 |
| 2025 | 10.75 |
| 2026 | 7.75 |
| 2027 | 6.5 |
| 2028 | 6.25 |
| 2029 | 5 |
| 2030 | 4.75. |

Beginning on page 193, strike line 9 and all that follows through page 194, line 12, and insert the following:

(b) CALCULATION.—

(1) IN GENERAL.—The regulations promulgated pursuant to subsection (a) shall provide that the quantity of emission allowances distributed to the owner or operator of an individual fossil fuel-fired electricity generator for a calendar year shall be equal to the product obtained by multiplying—

(A) the quantity of emission allowances allocated pursuant to section 551; and

(B) subject to paragraph (2), the quotient obtained by dividing—

(i) the average annual quantity of carbon dioxide equivalents emitted by the fossil fuel-fired electricity generator during the 3 calendar years preceding the date of enactment of this Act; by

(ii) the average annual quantity of carbon dioxide equivalents emitted by all fossil fuel-fired electricity generators during those 3 calendar years.

(2) INITIAL BASELINE FOR NEW ENTRANTS.—For purposes of the calculation under paragraph (1), in the case of a fossil fuel-fired electricity generator that commences operation on or after January 1, 2009, the value described in subparagraph (B) of paragraph (1) for each of the first 3 calendar years for which the generator is in operation shall be the average annual quantity of carbon dioxide equivalent emitted by all fossil-fired electricity generators during those 3 calendar years.

Strike the table that appears on page 203 after line 2 and insert the following:

| Calendar year | Percentage for auction for Climate Change Consumer Assistance Fund |
|---|---|
| 2012 | 1.5 |
| 2013 | 1.75 |
| 2014 | 1.75 |
| 2015 | 2 |
| 2016 | 2.25 |
| 2017 | 2.5 |
| 2018 | 3 |
| 2019 | 4 |
| 2020 | 4 |
| 2021 | 4 |
| 2022 | 5 |
| 2023 | 5 |
| 2024 | 6 |
| 2025 | 6 |
| 2026 | 7 |
| 2027 | 8 |
| 2028 | 8 |
| 2029 | 9 |
| 2030 | 10 |
| 2031 | 14 |
| 2032 | 14 |
| 2033 | 14 |
| 2034 | 15 |
| 2035 | 15 |
| 2036 | 15 |
| 2037 | 15 |
| 2038 | 15 |
| 2039 | 15 |
| 2040 | 15 |
| 2041 | 15 |
| 2042 | 15 |
| 2043 | 15 |
| 2044 | 15 |
| 2045 | 15 |
| 2046 | 15 |
| 2047 | 15 |
| 2048 | 15 |
| 2049 | 15 |
| 2050 | 15. |

**SA 4955.** Mr. DORGAN (for himself, Mr. WARNER, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 293, between lines 17 and 18, insert the following:

(3) QUALIFYING TRANSMISSION LINE.—The term ''qualifying transmission line'' means a transmission line that—

(A)(i) is placed into commercial service after the date of enactment of this Act;

(ii) transmits renewable electricity; and

(iii) to the maximum extent practicable, employs advanced grid technologies; or

(B)(i) provides incremental increases in transmission capacity for renewable electricity; and

(ii) to the maximum extent practicable, employs advanced grid technologies

(4) QUALIFYING TRANSMITTER OF RENEWABLE ELECTRICITY.—The term ''qualifying transmitter of renewable electricity'' means an entity that constructs qualifying transmission lines.

On page 293, line 18, strike ''(3)'' and insert ''(5)''.

On page 293, line 23, strike ''(4)'' and insert ''(6)''.

On page 294, line 7, strike ''(5)'' and insert ''(7)''.

On page 297, between lines 9 and 10, insert the following:

**SEC. 905. ADDITIONAL FUNDS.**

(a) IN GENERAL.—For the period of calendar years 2009 through 2018, of the proceeds of the auctions conducted under section 1402(a), $5,000,000,000 shall be allocated by the Administrator to the Low- and Zero-Carbon Electricity Technology Fund in accordance with the schedule described in subsection (b).

(b) SCHEDULE.—Of the amount made available under subsection (a), the Administrator shall allocate—

(1) $1,000,000,000 for calendar year 2012;

(2) $1,000,000,000 for calendar year 2013;

(3) $1,000,000,000 for calendar year 2014;

(4) $500,000,000 for calendar year 2015;

(5) $500,000,000 for calendar year 2016;

(6) $500,000,000 for calendar year 2017; and

(7) $500,000,000 for calendar year 2018.

Beginning on page 297, strike line 24 and all that follows through page 298, line 3, and insert the following:

(1) the production of electricity from new zero- or low-carbon generation;

(2) facility establishment or conversion by manufacturers and component suppliers of zero- or low-carbon generation technology; and

(3) the construction of additional transmission capacity to increase the quantity of renewable electricity on the electrical grid.

On page 298, strike lines 5 through 17 and insert the following:

(a) IN GENERAL.—The Climate Change Technology Board shall make awards under this section to domestic producers of new zero- or low-carbon generation, domestic facilities and operations of manufacturers and component suppliers of zero- or low-carbon generation technology, and domestic transmitters of renewable electricity—

(1) in the case of producers of new zero- or low-carbon generation, based on the bid of each generator in terms of dollars per megawatt-hour of electricity generated;

(2) in the case of qualifying manufacturers of zero- or low-carbon generation technology, based on the criteria described in section 909; and

(3) in the case of qualifying transmitters of renewable electricity, based on the quantity and distance of renewable electricity transmitted from remote areas that contain high renewable energy potential.

On page 300, between lines 10 and 11, insert the following:

(3) MINIMUM AMOUNT.—Of the amounts used by the Climate Change Technology Board to make awards to entities for zero- or low-carbon generation under this subtitle, not less than ½ of the amounts shall be used each fiscal year to make awards to entities for the generation of renewable energy.

On page 301, between lines 10 and 11, insert the following:

(c) CONSTRUCTION OF TRANSMISSION CAPACITY TO INCREASE AVAILABILITY OF RENEWABLE ELECTRICITY.—

(1) IN GENERAL.—The Climate Change Technology Board shall establish and carry out a program to direct, for each of calendar years 2012 through 2050, funds deposited in the Low- and Zero-Carbon Electricity Technology Fund during the preceding calendar year pursuant to section 904 to builders of qualifying transmission lines based on the percentage of the qualifying transmission lines of the builders that are dedicated to the transmission of energy from renewable energy sources to the grid.

(2) MINIMUM AMOUNT.—In carrying out the program established under paragraph (1), for each of calendar years 2012 through 2050, of the funds deposited in the Low- and Zero-Carbon Electricity Technology Fund during the preceding calendar year pursuant to section 904, the Climate Change Technology Board shall ensure that not less than 5 percent of the funds are used for the construction of qualifying transmission lines.

On page 304, strike lines 4 through 7 and insert the following:

**SEC. 913. ADDITIONAL FUNDS.**

(a) IN GENERAL.—For the period of calendar years 2009 through 2018, of the proceeds of the auctions conducted under section 1402(a), $5,000,000,000 shall be allocated by the Administrator to the Advanced Research Projects Agency—Energy—

(1) to be used by the Administrator to carry out renewable energy projects; and

(2) in accordance with the schedule described in subsection (b).

(b) SCHEDULE.—Of the amount made available under subsection (a), the Administrator shall allocate—

(1) $1,000,000,000 for calendar year 2012;

(2) $1,000,000,000 for calendar year 2013;

(3) $1,000,000,000 for calendar year 2014;

(4) $500,000,000 for calendar year 2015;

(5) $500,000,000 for calendar year 2016;

(6) $500,000,000 for calendar year 2017; and

(7) $500,000,000 for calendar year 2018.

**SEC. 914. USE OF FUNDS.**

(a) LIMITATION ON DISBURSEMENT.—No amounts deposited in the energy transformation acceleration fund pursuant to section 912 shall be disbursed, except pursuant to an appropriation Act.

(b) ADVANCED RESEARCH PROJECTS AGENCY—ENERGY.—Section 5012(c)(1)(A) of the America COMPETES Act (42 U.S.C. 16538(c)(1)(A)) is amended—

(1) in clause (ii), by striking ''and'' after the semicolon; and

(2) by adding at the end the following:

''(iv) the advancement of renewable energy technologies that do not emit greenhouse gases; and''.

**SA 4956.** Mr. ENZI (for himself, Mr. BOND, Mr. INHOFE, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, lines 1 through 3, strike ''part C of the Safe Drinking Water Act (42 U.S.C. 300h et seq.)'' and insert ''subtitle C of title X''.

Beginning on page 318, strike line 6 and all that follows through page 320, line 7, and insert the following:

**SEC. 1021. CARBON SEQUESTRATION AND CAPTURE.**

(a) DEFINITIONS.—In this section:

(1) ANTHROPOGENIC.—The term ''anthropogenic'' means produced or caused by human activity.

(2) CARBON DIOXIDE.—The term ''carbon dioxide'' means anthropogenically sourced carbon dioxide that is of sufficient purity and quality as to not compromise the safety and efficiency of any reservoir in which the carbon dioxide is stored.

(3) FEDERAL AGENCY.—The term ''Federal agency'' means any department, agency, or instrumentality of the United States.

(4) GEOLOGICAL STORAGE.—The term ''geological storage'' means permanent or short-term underground storage of carbon dioxide in a reservoir.

(5) PERSON.—

(A) IN GENERAL.—The term ''person'' means an individual, corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(B) INCLUSIONS.—The term ''person'' includes an officer, employee, and agent of any corporation, company (including a limited liability company), association, partnership, State, municipality, or Federal agency.

(6) RESERVOIR.—

(A) IN GENERAL.—The term ''reservoir'' means any subsurface sedimentary stratum, formation, aquifer, or cavity or void (whether natural or artificially created) that is suitable for, or capable of being made suitable for, the injection and storage of carbon dioxide.

(B) INCLUSIONS.—The term ''reservoir'' includes—

(i) an oil and gas reservoir;

(ii) a saline formation or coal seam; and

(iii) the seabed and subsoil of a submarine area.

(7) STATE.—

(A) IN GENERAL.—The term ''State'' means—

(i) each of the several States of the United States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) Guam;

(v) American Samoa;

(vi) the Commonwealth of the Northern Mariana Islands;

(vii) the Federated States of Micronesia;

(viii) the Republic of the Marshall Islands;

(ix) the Republic of Palau; and

(x) the United States Virgin Islands.

(B) INCLUSIONS.—The term ''State'' includes all territorial water, seabed, and subsoil of submarine areas of each State.

(8) STATE REGULATORY AGENCY.—The term ''State regulatory agency'' means the agency designated by the Governor of a State to administer a carbon dioxide storage program of the State.

(9) STORAGE FACILITY.—

(A) IN GENERAL.—The term ''storage facility'' means—

(i) an underground reservoir, underground equipment, and surface structures and equipment used in an operation to store carbon dioxide in a reservoir; and

(ii) any other facilities that the Administrator may include by regulation or permit.

(B) EXCLUSIONS.—The term ''storage facility'' does not include pipelines used to transport the carbon dioxide from 1 or more capture facilities to the storage and injection site.

(10) STORAGE OPERATOR.—The term ''storage operator'' means any person or other entity authorized by the Administrator or State regulatory agency to operate a storage facility.

(11) UNDERGROUND RESERVOIR.—The term ''underground reservoir'', with respect to a storage facility, includes any necessary and reasonable areal buffer and subsurface monitoring zones that are—

(A) designated by the Administrator or State regulatory agency for the purpose of ensuring the safe and efficient operation of the storage facility for the storage of carbon dioxide; and

(B) selected to protect against pollution, invasion, and escape or migration of the stored carbon dioxide.

(b) STATE CARBON DIOXIDE GEOLOGICAL STORAGE PROGRAMS.—

(1) REGULATIONS.—

(A) IN GENERAL.—The Administrator shall—

(i) not later than 180 days after the date of enactment of this Act, publish in the Federal Register proposed regulations for State carbon dioxide storage programs; and

(ii) not later than 180 days after the date of publication of the proposed regulations under clause (i), promulgate final regulations for State carbon dioxide storage programs that meet the requirements described in paragraph (2)(A), including such modifications as the Administrator determines to be appropriate.

(B) UPDATING.—The Administrator may periodically review and, as necessary, revise the regulations promulgated under this subsection.

(2) STATE REGULATORY AUTHORITY.—

(A) IN GENERAL.—The regulations promulgated under paragraph (1)(A)(ii) shall establish minimum requirements that States shall meet in order to be approved to administer a carbon dioxide storage program under subsection (c)(1), including—

(i) a prohibition on carbon dioxide storage in the State that is not authorized by a permit issued by the State;

(ii) inspection, monitoring, recordkeeping, and reporting requirements; and

(iii) authority for the State regulatory agency to issue a permit, after public notice and hearing, approving a storage facility for the proposed geological storage of carbon dioxide if the State regulatory authority determines that—

(I) the horizontal and vertical boundaries of the geological storage facility designated by the permit are appropriate for the storage facility;

(II) the storage facility and reservoir are suitable and feasible for the injection and storage of carbon dioxide;

(III) a good faith effort has been made to obtain the consent of a majority of the owners having property interests affected by the storage facility, and that the storage operator intends to acquire any remaining interest by eminent domain or by a method otherwise allowed by law;

(IV) the use of the storage facility for the geological storage of carbon dioxide will not result in the unpermitted migration of carbon dioxide into other formations containing fresh drinking water or oil, gas, coal, or other commercial mineral deposits that are not owned by the storage operator; and

(V) the proposed storage would—

(aa) not unduly endanger human health or the environment; and

(bb) be in the public interest.

(B) STATE AUTHORITY.—A State regulatory agency approved under subsection (c)(1) to administer a carbon dioxide storage program shall issue such orders, permits, certificates, rules, and regulations, including establishment of such appropriate and sufficient financial sureties as are necessary, for the purpose of regulating the drilling, operation, and well plugging and abandonment and removal of surface buildings and equipment of the storage facility in order to protect the storage facility against pollution, invasion, and the escape or migration of carbon dioxide.

(C) EMINENT DOMAIN.—A storage operator may be empowered by a State to exercise the right of eminent domain under State law to acquire all surface and subsurface rights and interests necessary or useful for the purpose of operating the storage facility, including easements and rights-of-way across land that are necessary to transport carbon dioxide among components of the storage facility.

(D) VARIANCE IN CONDITIONS.—The regulations promulgated under paragraph (1)(A)(ii) shall permit or provide for consideration of varying geological, hydrological, and historical conditions in different States and in different areas within a State.

(E) ENHANCED RECOVERY OPERATIONS.—

(i) IN GENERAL.—Upon the approval of a State to administer a carbon dioxide storage program under subsection (c)(1), the State regulatory agency designated by the State may develop rules to allow the conversion into a storage facility of an enhanced recovery operation that is in existence as of the date on which administration of the program by the State is approved.

(ii) OIL AND GAS RECOVERY.—Nothing in this section applies to or otherwise affects the use of carbon dioxide as a part of or in conjunction with any enhanced recovery method the sole purpose of which is enhanced oil or gas recovery.

(c) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—

(1) APPROVAL OF STATE CARBON DIOXIDE STORAGE PROGRAMS.—

(A) APPLICATION.—

(i) IN GENERAL.—After promulgation of the regulations under subsection (b)(1)(A)(ii), each State may submit to the Administrator an application that demonstrates, to the satisfaction of the Administrator, that the State—

(I) has adopted, after providing for reasonable notice and an opportunity for public comment, and will implement, a carbon dioxide storage program that meets the requirements of the regulations; and

(II) will keep such records and make such reports with respect to the activities of the State under the carbon dioxide storage program as the Administrator may require by regulation.

(ii) REVISIONS.—Not later than the expiration of the 270-day period beginning on the date on which any regulation promulgated under subsection (b)(1)(A)(ii) is revised or amended with respect to a requirement applicable to State carbon dioxide storage programs, each State with a carbon dioxide storage program approved under subparagraph (B) shall submit, in such form and in such manner as the Administrator may require, a notice to the Administrator that demonstrates, to the satisfaction of the Administrator, that the State carbon dioxide storage program meets the revised or amended requirement.

(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date on which a State submits to the Administrator an application under subparagraph (A)(i) or a notice under subparagraph (A)(ii), and after a reasonable (as determined by the Administrator) opportunity for discussion, the Administrator shall by regulation approve, disapprove, or approve in part and disapprove in part, the carbon dioxide storage program proposed by the State.

(C) EFFECT OF APPROVAL.—If the Administrator approves the carbon dioxide storage program of a State under subparagraph (B), the State shall have primary enforcement responsibility for carbon dioxide storage in the State until such time as the Administrator determines, by regulation, that the State no longer meets the requirements of subparagraph (A)(i).

(D) PUBLIC PARTICIPATION.—Before making a determination under subparagraph (B) or (C), the Administrator shall provide an opportunity for a public hearing with respect to the determination.

(2) STATES WITHOUT PRIMARY ENFORCEMENT RESPONSIBILITY.—

(A) IN GENERAL.—If a State fails to submit an application under paragraph (1)(A)(i) by the date that is 270 days after the date of promulgation of regulations under subsection (b)(1)(A)(ii), the Administrator shall by regulation prescribe (and may from time to time by regulation revise) a program applicable to the State that meets the terms and conditions of subsection (b)(2).

(B) DISAPPROVAL.—If the Administrator disapproves all or a portion of the program of a State under paragraph (1)(B), if the Administrator determines under paragraph (1)(C) that a State no longer meets the requirements of subclause (I) or (II) of paragraph (1)(A)(i), or if a State fails to submit a notice before the expiration of the period specified in paragraph (1)(A)(ii), the Administrator shall by regulation, not later than 90 days after the date of the disapproval, determination, or expiration (as the case may be), prescribe (and may from time to time by regulation revise) a program applicable to the

State that meets the requirements of subsection (b)(2).

(C) APPLICABILITY.—A program prescribed by the Administrator under subparagraph (B) shall apply in a State only to the extent that a program adopted by the State that the Administrator determines meets the requirements of this section or subsection (b)(2) is not in effect.

(D) PUBLIC PARTICIPATION.—Before promulgating any regulation under subparagraph (B) or (C), the Administrator shall provide an opportunity for a public hearing with respect to the regulation.

(d) ENFORCEMENT OF PROGRAM.—

(1) NOTIFICATION.—

(A) IN GENERAL.—In any case in which the Administrator determines, during a period during which a State has primary enforcement responsibility for carbon dioxide storage, that any person who is subject to a requirement of the carbon dioxide storage program is violating the requirement, the Administrator shall notify the State and the person violating the requirement of the violation.

(B) FAILURE TO ENFORCE.—If, after the date that is 30 days after the Administrator notifies a State of a violation under subparagraph (A), the State has not commenced appropriate enforcement action, the Administrator shall—

(i) issue an order under paragraph (2) requiring the person to—

(I) correct the matter; and

(II) comply with the requirement; or

(ii) bring a civil action in accordance with paragraph (3).

(C) VIOLATIONS IN CERTAIN STATES.—In any case in which the Administrator determines, during a period during which a State does not have primary enforcement responsibility for carbon dioxide storage, that any person subject to any requirement of any applicable carbon dioxide storage program in the State is violating the requirement, the Administrator shall—

(i) issue an order under paragraph (2) requiring the person to comply with requirement; or

(ii) bring a civil action in accordance with paragraph (3).

(2) ADMINISTRATIVE ORDERS AND APPEALS.—

(A) IN GENERAL.—In any case in which the Administrator has the authority to bring a civil action under this subsection with respect to any regulation or other requirement of this section, the Administrator may, in addition to bringing the civil action, issue an order under this paragraph that—

(i) assesses a civil penalty of not more than $10,000 for each day of violation for any past or current violation, up to a maximum aggregate civil penalty of $125,000, for each covered entity;

(ii) requires compliance with the regulation or other requirement; or

(iii) accomplishes each of the actions described in clauses (i) and (ii).

(B) TIMING.—An order under this paragraph shall be issued by the Administrator only after an opportunity (provided in accordance with this paragraph) for a hearing.

(C) NOTICE.—Before issuing any order under subparagraph (A), the Administrator shall provide to the person to whom the order applies—

(i) written notice of the intent of the Administrator to issue the order; and

(ii) the opportunity to request, within the 30-day period beginning on the date of receipt by the person of the notice, a hearing on the order.

(D) REQUIREMENTS.—A hearing described in subparagraph (C)(ii)—

(i) shall not be subject to section 554 or 556 of title 5, United States Code; but

(ii) shall provide to each interested person a reasonable opportunity to be heard and to present evidence.

(E) NOTICE AND COMMENT.—The Administrator shall provide public notice of, and a reasonable opportunity to comment on, any proposed order.

(F) SPECIFIC NOTICE.—Any person who comments on any proposed order under subparagraph (E) shall be given notice of any hearing under this paragraph and of any order.

(G) EFFECTIVE DATE.—Any order issued under this paragraph shall become effective on the date that is 30 days after the date of issuance of the order, unless an appeal is taken pursuant to subparagraph (K).

(H) CONTENTS OF ORDER.—Any order issued under this paragraph—

(i) shall state with reasonable specificity the nature of the violation; and

(ii) may specify a reasonable period to achieve compliance.

(I) CONSIDERATIONS.—In assessing any civil penalty under this paragraph, the Administrator shall take into consideration all appropriate factors, including—

(i) the seriousness of the violation;

(ii) the economic benefit (if any) resulting from the violation;

(iii) any history of similar violations;

(iv) any good-faith efforts to comply with the applicable requirements;

(v) the economic impact of the penalty on the violator; and

(vi) such other matters as justice may require.

(J) OTHER ACTIONS.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting a civil action under a provision of law other than this section, or has issued an order under this paragraph assessing a civil penalty, shall not be subject to a civil action under paragraph (3).

(K) APPEALS.—Any person against whom an order is issued may file an appeal of the order, not later than 30 days after the date of issuance of the order, with—

(i) the United States District Court for the District of Columbia; or

(ii) the United States district court for the district in which the violation is alleged to have occurred.

(L) DISTRIBUTION OF COPIES.—An appellant shall simultaneously send a copy of an appeal filed under subparagraph (K) by certified mail to the Administrator and to the Attorney General.

(M) RECORD.—The Administrator shall promptly file in the appropriate court described in subparagraph (K) a certified copy of the record on which an order was based.

(N) JUDICIAL ACTION.—A court having jurisdiction over an order issued under this paragraph shall not—

(i) set aside or remand the order unless the court determines that—

(I) there is not substantial evidence on the record, taken as a whole, to support the finding of a violation; or

(II) the assessment by the Administrator of a civil penalty, or a requirement for compliance, constitutes an abuse of discretion; or

(ii) impose additional civil penalties for the same violation unless the court determines that the assessment by the Administrator of a civil penalty constitutes an abuse of discretion.

(O) FAILURE TO PAY.—

(i) IN GENERAL.—If any person fails to pay an assessment of a civil penalty after an order becomes effective under subparagraph (G), or after a court, in a civil action brought under subparagraph (K), has entered a final judgment in favor of the Administrator, the Administrator may request the Attorney General to bring a civil action in an appropriate United States district court to recover the amount assessed, plus costs, attorneys' fees, and interest at currently prevailing rates, calculated from the date on which the order is effective or the date of the final judgment, as the case may be.

(ii) NO REVIEW OF AMOUNT.—In a civil action brought under clause (i), the validity, amount, and appropriateness of the civil penalty shall not be subject to review.

(P) AUTHORITY OF ADMINISTRATOR.—The Administrator may, in connection with administrative proceedings under this paragraph—

(i) issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum; and

(ii) request the Attorney General to bring a civil action to enforce any subpoena issued under this subparagraph.

(Q) ENFORCEMENT.—The United States district courts shall have jurisdiction to enforce, and impose sanctions with respect to, subpoenas issued under subparagraph (P).

(3) CIVIL AND CRIMINAL ACTIONS.—

(A) IN GENERAL.—A civil action referred to in subparagraph (B) or (C) of paragraph (1) shall be brought in the appropriate United States district court.

(B) AUTHORITY; JUDGEMENT.—A court described in subparagraph (A)—

(i) shall have jurisdiction to require compliance with any requirement of an applicable carbon dioxide storage program or with an order issued under paragraph (2); and

(ii) may enter such judgment as the protection of public health may require.

(C) PENALTIES.—Any person who violates any requirement of an applicable carbon dioxide storage program or an order requiring compliance under paragraph (2)—

(i) shall be subject to a civil penalty of not more than $25,000 for each day of such violation; and

(ii) if the violation is willful, may, in addition to or in lieu of the civil penalty under clause (i), be imprisoned for not more than 3 years, fined in accordance with title 18, United States Code, or both.

(4) EFFECT ON STATE AUTHORITY.—

(A) IN GENERAL.—Nothing in this subsection diminishes or otherwise affects any authority of a State or political subdivision of a State to adopt or enforce any law (including a regulation) (relating to the storage of carbon dioxide.

(B) OTHER REQUIREMENTS.—No law (including a regulation) described in subparagraph (A) shall relieve any person of any requirement otherwise applicable under this Act.

(e) FINANCIAL ASSURANCES FOR STORAGE OPERATORS.—

(1) IN GENERAL.—Each storage operator shall be required by the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) to have and maintain financial assurances of such type and in such amounts as are necessary to cover public liability claims relating to the storage facility of the storage operator.

(2) MAINTENANCE OF FINANCIAL ASSURANCES.—The financial assurances required under paragraph (1) shall be maintained by the storage operator until such time as the operator obtains a certificate of completion of injection operations under subsection (f).

(3) AMOUNT.—The amount of financial assurances required under paragraph (1) shall be the maximum amount of liability insurance available at a reasonable cost and on reasonable terms from private sources (including private insurance, private contractual indemnities, self-insurance, or a combination of those measures), as determined by the Administrator.

(f) CESSATION OF STORAGE OPERATIONS.—Upon a showing by a storage operator that a

storage facility is reasonably expected to retain mechanical integrity and remain in place, the State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority) shall issue a certificate of completion of injection operations to the storage operator.

(g) LIABILITY OF STORAGE OPERATORS FOR RELEASE OF CARBON DIOXIDE.—

(1) IN GENERAL.—The Administrator shall agree to indemnify and hold harmless a storage operator (and if different from the storage operator, the owner of the storage facility) that has maintained financial assurances under subsection (e) from liability arising from the leakage of carbon dioxide at any storage facility operated by the storage operator, to the extent that the liability is in excess of the level of financial protection required of the storage operator.

(2) COMPLETION OF OPERATIONS.—Upon the issuance of certificate of completion of injection operations by a State regulatory agency (in the case of a State with primary enforcement authority) or the Administrator (in the case of a State that does not have primary enforcement authority)—

(A) the Administrator shall be vested with complete and absolute title and ownership of the storage facility and any stored carbon dioxide at the facility;

(B) the storage operator and all generators of any injected carbon dioxide shall be released from all further liability associated with the project; and

(C)(i) any performance bonds posted by the storage operator shall be released; and

(ii) continued monitoring of the storage facility, including remediation of any well leakage, shall become the responsibility of the Administrator.

(h) FUNDING.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall collect an annual assessment from each storage operator for each storage facility that has not obtained a certificate of completion of injection operations.

(2) ASSESSMENT AMOUNT.—The amount of the assessment for a storage facility for a fiscal year shall be equal to the product obtained by multiplying—

(A) the per-ton assessment for the fiscal year calculated under paragraph (4); and

(B) the total number of tons of carbon dioxide injected for storage by the storage operator during the preceding fiscal year at all storage facilities operated by the storage operator during the fiscal year.

(3) AGGREGATE AMOUNT.—The aggregate amount of assessments collected from all storage operators under paragraph (1) for any fiscal year shall be equal to the sum of, with respect to the fiscal year—

(A) any indemnification payments required to be made pursuant to subsection (g)(1);

(B) any costs associated with storage facilities to which the Administrator has taken title pursuant to subsection (g)(2), including costs associated with any—

(i) inspection, monitoring, recordkeeping, and reporting requirements of those facilities;

(ii) remediation of carbon dioxide leakage; or

(iii) plugging and abandoning of remaining wells; and

(C) any costs associated with public liability of storage facilities to which the Administrator has taken title pursuant to subsection (g)(2).

(4) CALCULATION OF ASSESSMENT.—The assessment under this subsection per ton of carbon dioxide for a fiscal year shall be equal to the quotient obtained by dividing—

(A) the aggregate amount of assessments calculated under paragraph (3) for the fiscal year; by

(B) the aggregate number of tons of carbon dioxide injected for storage during the preceding fiscal year by all storage operators.

(5) INFORMATION.—The Administrator shall require the submission of such information by each storage operator on an annual basis as is necessary to make the calculations required under this subsection.

(i) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—The Administrator shall promulgate regulations for permitting commercial-scale underground injection of carbon dioxide for purposes of geological sequestration under this section.

(2) SAFE DRINKING WATER ACT.—Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) shall not be used as a basis for permitting commercial-scale underground injection or storage of carbon dioxide.

Beginning on page 329, strike line 1 and all that follows through page 330, line 3.

At the end of title X, add the following:

**Subtitle D—Reduced Carbon Emissions Through Clean Coal Technologies**

**SEC. 1031. STATEMENT OF POLICY.**

It is the policy of the United States to reduce carbon emissions from technology improvements to coal-fired power plants that will reduce the quantity of coal burned and carbon dioxide emitted per unit of power produced.

**SEC. 1032. CLEAN COAL RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall expand and accelerate efforts to conduct research and develop technologies that reduce carbon dioxide emissions from coal-fired facilities with an emphasis on commercial viability and reliability.

(b) SHORT-, MEDIUM- AND LONG-TERM TECHNOLOGY AREAS.—The Secretary shall emphasize technologies that reduce carbon dioxide emissions in the short-, medium-, and long-term time frames, including—

(1) innovations for existing power plants that reduce carbon dioxide emissions by energy efficiency increases or by capturing carbon emissions, including technologies that—

(A) reduce the quantity of fuel combusted per unit of electricity output;

(B) reduce parasitic power loss from carbon control technology;

(C) improve compression of the separated and captured carbon dioxide;

(D) reuse or reduce water consumption and withdrawal; and

(E) capture carbon dioxide post-combustion from flue gas, such as through the use of ammonia-based, aqueous amine or ionic liquid solutions or other methods;

(2) new combustion systems, including—

(A) oxyfuel combustion that burns fuel in the presence of oxygen and recirculated flue gas instead of air producing a concentrated stream of carbon dioxide that can be readily captured for storage or use;

(B) chemical looping combustion that burns fuel in the presence of a solid oxygen carrier instead of air producing concentrated stream of carbon dioxide that can be readily captured for storage or use;

(C) high-temperature and pressure steam systems, such as ultra supercritical steam generation, that result in high net plant efficiency and reduced fuel consumption, thus producing less carbon dioxide per unit of energy;

(D) other innovative carbon dioxide control technologies appropriate for new combustion systems; and

(E) high temperature and high pressure materials that will result in much higher plant efficiencies and carbon dioxide emission reductions;

(3) innovations for IGCC systems that build on the ability of the IGCC to separate pollutants and carbon emissions from gas streams, including—

(A) advanced membrane technology for carbon dioxide separation;

(B) improved air separation systems;

(C) improved compression for the separated and captured carbon dioxide; and

(D) other innovative carbon dioxide control technologies appropriate for IGCC systems;

(4) advanced combustion turbines, including—

(A) ultra low emission hydrogen turbines; and

(B) oxycoal combustion turbines; and

(5) sequestration of captured carbon in geological formations, including—

(A) plume tracking;

(B) carbon dioxide leak detection and mitigation;

(C) carbon dioxide fate and transport models; and

(D) site evaluation instrumentation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) for innovations at power plants in operation as of the date of enactment of this Act $450,000,000 for the period of fiscal years 2009 through 2020;

(2) for new combustion systems $450,000,000 for the period of fiscal years 2009 through 2025;

(3) for IGCC systems $850,000,000 for the period of fiscal years 2009 through 2025;

(4) for advanced combustion turbines $350,000,000 for the period of fiscal years 2009 through 2025;

(5) for carbon storage $400,000,000 for the period of fiscal years 2009 through 2020.

**SEC. 1033. CLEAN COAL DEMONSTRATION.**

(a) IN GENERAL.—The Secretary shall expand and accelerate the demonstration of technologies that reduce carbon dioxide emissions from coal-fired facilities by demonstrating, at a minimum—

(1) through facilities in operation as of the date of enactment of this Act—

(A) post-combustion carbon dioxide capture at pilot scale at not less than 2 facilities, the award of contracts for which shall be completed by 2010;

(B) oxycoal combustion at commercial scale retrofitted to not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) post-combustion carbon dioxide capture at commercial scale retrofitted to not less than 1 facility, the award of contracts for which shall be completed by 2012;

(D) heat rate and efficiency improvements at commercial scale at not less than 2 facilities, the award of contracts for which shall be completed by 2012; and

(E) water consumption reduction at commercial scale at not less than 2 facilities, the award of contracts for which shall be completed by 2012;

(F) post-combustion carbon dioxide capture at pilot scale with technologies other than technologies demonstrated under subparagraphs (A) and (C) at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(G) heat rate and efficiency improvements at commercial scale at not less than 3 facilities, the award of contracts for which shall be completed by 2014;

(H) water consumption reduction at commercial scale at not less than 3 facilities, the award of contracts for which shall be completed by 2014; and

(I) post-combustion carbon dioxide capture at pilot scale with technologies other than

technologies demonstrated under subparagraphs (A), (C), and (F) at not less than 1 facility, the award of contracts for which shall be completed by 2016;

(2) through new coal combustion facilities that include carbon capture—

(A) oxycoal combustion at pilot scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) post-combustion carbon dioxide capture at pilot scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) oxycoal combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(D) supercritical pulverized coal combustion with advanced emission controls and partial carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(E) oxycoal supercritical circulating fluidized bed combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(F) post-combustion carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(G) post-combustion carbon dioxide capture at pilot scale with technologies other than technologies demonstrated under subparagraphs (B) or (F) at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(H) ultra supercritical (1290°F) pulverized coal combustion with near-zero emission controls and 90 percent carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(I) oxycoal combustion with an advanced oxygen separation system at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2016;

(J) second generation post-combustion carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2014;

(K) chemical looping combustion at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2018; and

(L) ultra advanced supercritical (1400°F) combustion with near-zero emission controls and 90 percent integrated carbon dioxide capture at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2018;

(3) through IGCC with carbon capture—

(A) partial carbon dioxide capture without a water gas shift system at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) using G class turbine at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2012;

(C) using H class turbines at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2014; and

(D) using H class turbines at not less than 1 facility with at least 400 megawatts in generating capacity, the award of contracts for which shall be completed by 2016.

(4) through advanced turbines using—

(A) monitoring systems for advanced IGCC gas turbine at commercial scale at not less than 1 facility, the award of contracts for which shall be completed by 2010;

(B) advanced oxygen separation of at least 2,000 tons per day in size integrated with a combustion turbine at not less than 1 facility, the award of contracts for which shall be completed by 2012;

(C) an oxyfuel turbine of at least 50 megawatts in generating capacity, at not less than 1 facility, the award of contracts for which shall be completed by 2015;

(D) advanced oxygen separation of at least 2,000 tons per day in size integrated with a gas turbine at not less than 1 facility, the award of contracts for which shall be completed by 2015; and

(E) an oxyfuel turbine of at least 400 megawatts in generating capacity, at not less than 1 facility, the award of contracts for which shall be completed by 2020; and

(5) for storage of carbon dioxide captured through—

(A) a field test of sequestration of at least 1,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2010;

(B) field tests of sequestration of at least 2,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2012; and

(C) a field test of sequestration of at least 1,000,000 tons of carbon dioxide per year in a saline formation, the award of contracts for which shall be completed by 2014.

(b) SEQUESTRATION OF CAPTURED CARBON DIOXIDE.—In any demonstration referred to in subsection (a) that demonstrates carbon dioxide capture, the carbon dioxide capture shall be used for enhanced oil recovery, sequestered in geologically appropriate formations, or permanently sequestered or reused, with funds made available to carry out each such demonstration for the respective purpose of the demonstration.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) for demonstrations through facilities in operation as of the date of enactment of this Act $850,000,000 for the period of fiscal years 2009 through 2025;

(2) for new combustion systems $1,950,000,000 for the period of fiscal years 2009 through 2025;

(3) for IGCC systems $2,950,000,000 for the period of fiscal years 2009 through 2025;

(4) for advanced combustion turbines $400,000,000 for the period of fiscal years 2009 through 2025; and

(5) for carbon storage $1,350,000,000 for the period of fiscal years 2009 through 2020.

**SEC. 1034. IDENTIFICATION OF CLEAN COAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—The Secretary shall take such steps as are necessary to carry out this subtitle.

(b) PUBLIC COMMENT.—Not later than 90 days after the date of enactment of this Act and every 2 years thereafter, the Secretary shall institute a public comment period of at least 45 days to assist the determination of the specific research, development, and demonstration projects required under this subtitle.

(c) APPLICATIONS.—Not later than 120 days after the end of each public comment period required under subsection (b), the Secretary shall—

(1) publicly identify the specific types of projects that the Secretary intends to pursue to carry out this subtitle;

(2) establish selection criteria for the specific types of projects identified under paragraph (1); and

(3) establish an application process that allows persons that are interested in participating in projects identified under paragraph (1) to provide such information as the Secretary determines to be necessary.

**Subtitle E—Clean Coal Technology Incentives**

**SEC. 1041. SHORT TITLE.**

This subtitle may be cited as the ''Energy Security and Climate Enhancement Through Clean Coal Technology Act of 2008''.

**SEC. 1042. MODIFICATION OF SPECIAL RULES FOR ATMOSPHERIC POLLUTION CONTROL FACILITIES.**

(a) IN GENERAL.—Subsection (d) of section 169 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—Notwithstanding paragraph (1), the term 'pollution control facility' includes any mechanical or electronic system which—

''(A) which is a new identifiable treatment facility (as defined in paragraph (4)),

''(B) which is—

''(i) installed after December 31, 2007, and

''(ii) used in connection with an electric generation plant or other property which is primarily coal fired, and

''(C) which is certified by the owner or operator of the plant or other property, in such form and manner as prescribed by the Secretary, to reduce carbon dioxide emissions per net megawatt hour of electricity generation by—

''(i) optimizing combustion,

''(ii) optimizing sootblowing and heat transfer,

''(iii) upgrading steam temperature control capabilities,

''(iv) reducing exit gas temperatures (air heater modifications)

''(v) predrying low rank coals using power plant waste heat,

''(vi) modifying steam turbines or change the steam path/blading,

''(vii) replacing single speed motors with variable speed drives for fans and pumps,

''(viii) improving operational controls, including neural networks, or

''(ix) any other means approved by the Secretary, in consultation with the Secretary of Health and Human Services.''.

(b) DEDUCTION NOT ADJUSTED FOR PURPOSES OF DETERMINING ALTERNATIVE MINIMUM TAX.—Paragraph (5) of section 56(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''The preceding sentences of this paragraph shall not apply to any pollution control facility described in section 169(d)(6).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2007.

**SEC. 1043. EXTENSION AND MODIFICATION OF PRODUCTION CREDIT FOR CLOSED-LOOP BIOMASS.**

(a) IN GENERAL.—Clause (ii) of section 45(d)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iii) owned by the taxpayer which after before January 1, 2014 is originally placed in service and modified, or is originally placed in service as a facility, to use closed-loop biomass to co-fire (or, in the case of an integrated gasification combined cycle facility, to co-process) with coal, with other biomass, or with both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after the date of the enactment of this Act.

**SEC. 1044. QUALIFYING NEW CLEAN COAL POWER PLANT CREDIT.**

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 48B the following new section:

**''SEC. 48C. QUALIFYING NEW CLEAN COAL POWER PLANT CREDIT.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 46, the qualifying new clean coal power plant credit for any taxable year is an amount equal to the applicable percentage of the qualified investment for such taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

| ''In the case of a plant which either has— | | | The applicable percentage is: |
|---|---|---|---|
| a design net heat rate below— | or | a carbon dioxide emission rate of— | |
| 7,580 Btu/kWh (45% efficiency) | | 1,577 lbs/MWh or less | 30 percent |
| 7,760 Btu/kWh (44% efficiency) | | 1,613 lbs/MWh or less | 28 percent |
| 7,940 Btu/kWh (43% efficiency) | | 1,650 lbs/MWh or less | 26 percent |
| 8,120 Btu/kWh (42% efficiency) | | 1,690 lbs/MWh or less | 20 percent |
| 8,322 Btu/kWh (41% efficiency) | | 1,731 lbs/MWh or less | 10 percent |
| 8,530 Btu/kWh (40% efficiency) | | 1,774 lbs/MWh or less | 10 percent |

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying new clean coal power plant—

''(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

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

''(1) QUALIFYING NEW CLEAN COAL POWER PLANT.—The term 'qualifying new clean coal power plant' means a facility which—

''(A) which meets the requirements of section 48A(e),

''(B) which either—

''(i) has a design net heat rate of below 8,530 Btu/kWh, or

''(ii) has a carbon dioxide emission rate of 1,774 lbs/MWh or less, and

''(C) which—

''(i) is designed to capture carbon dioxide emissions, or

''(ii)(I) is designed to include a built-in space for future carbon dioxide capture hardware (and improved foundations and ironwork necessary to accommodate the additional hardware),

''(II) includes an engineering feasibility study identifying a system, including associated cost and performance parameters, to retrofit carbon capture equipment, and

''(III) includes a site or sited identified where carbon dioxide may be stored or used for commercial purposes.

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property which is a part of a qualifying new clean coal power plant.

''(d) QUALIFYING NEW CLEAN COAL POWER PLANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying new clean coal power plant program, under which the Secretary shall certify projects eligible for the credit under subsection (a)

''(2) APPLICATION.—An application under for certification under this section shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements of this section. Any information contained in the application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

''(3) AGGREGATE CREDITS.—The aggregate or projects certified by the Secretary under this subsection shall not exceed an aggregate capacity for electricity generation of more than 6,000 megawatts.''.

''(e) RECAPTURE OF CREDIT.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain any of the requirements of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) the qualifying new clean coal power plant credit.''.

(2) Section 49(a)(1)(C) of such Code 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 basis of any property which is part of a qualifying new clean coal power plant under section 48C.''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying new clean coal power plant credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1045. INVESTMENT CREDIT FOR EQUIPMENT USED TO CAPTURE, TRANSPORT, AND STORE CARBON DIOXIDE.**

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this Act, is amended by inserting after section 48C the following new section:

**''SEC. 48D. EQUIPMENT USED TO CAPTURE, TRANSPORT, AND STORE CARBON DIOXIDE EMISSIONS.**

''(a) GENERAL RULE.—For purposes of section 46, the qualifying carbon dioxide equipment credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year.

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

''(1) ELIGIBLE PROPERTY.—The term 'eligible property' means equipment installed on a qualified coal-fired electric power generating unit to capture, transport, and store carbon dioxide produced at such generating unit, including equipment to separate and pressurize carbon dioxide for transport (including hardware to operate such equipment) and equipment to transport, inject, and monitor such carbon dioxide, as further specified and identified, by rule, by the Secretary.

''(2) QUALIFIED COAL-FIRED ELECTRIC GENERATION UNIT.—The term 'qualified coal-fired electric generation unit' means a unit which, after installation of eligible property, is designed to capture and store in a geologic formation not less than 500,000 metric tons of carbon dioxide per year.

''(d) AGGREGATE CREDITS.—The credits allowed under subsection (a) shall apply only to the first 9,000 megawatts of capacity of qualified coal-fired electric power generating units certified by the Secretary under subsection (e).

''(e) CERTIFICATION.—

''(1) CERTIFICATION PROCESS.—The Secretary shall establish a certification process to determine the extent to which eligible property has been installed on a qualified coal-fired electric power generating unit, and to make such other determinations as the Secretary deems appropriate. The Secretary shall prepare an application for certification.

''(2) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application for certification shall contain such information as the Secretary may require in order to establish credit entitlement. Any information contained in an application shall be protected as provided in section 552(b)(4) of title 5, United States Code.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) the qualifying carbon dioxide equipment credit.''.

(2) Section 49(a)(1)(C) of such Code, as amended by this Act, is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) the basis of any eligible property under section 48D.''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code, as amended by this Act is amended by inserting after the item relating to section 48C the following new section:

''Sec. 48D. Equipment used to capture, transport, and store carbon dioxide emissions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 1046. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION IN THE GENERATION OF ELECTRICITY.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

**''SEC. 45Q. CREDIT SEQUESTERING CARBON DIOXIDE IN THE GENERATION OF ELECTRICITY.**

''(a) GENERAL RULE.—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

''(1) $30 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility during the credit period, and

''(B) disposed of by the taxpayer in secure geological storage, and

''(2) $10 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility during the credit period, and

''(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

''(b) QUALIFIED FACILITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified facility' means any industrial facility—

''(A) which is owned by the taxpayer,

''(B) at which carbon capture equipment is placed in service,

''(C) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year, and

''(D) which is certified by the Secretary under paragraph (2).

''(2) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish a program under which facilities which use coal for the generation of electricity are certified for purposes of this section.

''(B) LIMITATION.—The total aggregate generating capacity of all facilities certified by the Secretary under this paragraph shall not exceed 9,000 megawatts.

''(c) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

''(A) would otherwise be released into the atmosphere as industrial emissions of greenhouse gas, and

''(B) is measured at the source of capture and verified at the point of disposal or injection.

''(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

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

''(1) CREDIT PERIOD.—The term 'credit period' means, with respect to any qualified facility, the 10-year period beginning on the date on which qualified carbon dioxide for which a credit was allowed under subsection (a) was first captured.

''(2) ONLY CARBON DIOXIDE CAPTURED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture of which is within—

''(A) the United States (within the meaning of section 638(1)), or

''(B) a possession of the United States (within the meaning of section 638(2)).

''(3) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

''(4) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

''(5) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term 'qualified enhanced oil or natural gas recovery project' has the meaning given the term 'qualified enhanced oil recovery project' by section 43(c)(2), by substituting 'crude oil or natural gas' for 'crude oil' in subparagraph (A)(i) thereof.

''(6) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

''(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

''(8) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

''(A) such dollar amount, multiplied by

''(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2007' for '1990'.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', plus'', and by adding at the end of following new paragraph:

''(34) the carbon dioxide sequestration credit determined under section 45Q(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to other credits) is amended by adding at the end the following new section:

''Sec. 45Q. Credit for sequestering carbon dioxide in the generation of electricity.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply carbon dioxide captured after the date of the enactment of this Act.

**SEC. 1047. CLEAN ENERGY COAL BONDS.**

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to qualified tax credit bonds) is amended by adding at the end the following new section:

**''SEC. 54C. CLEAN ENERGY COAL BONDS.**

''(a) CLEAN ENERGY COAL BOND.—For purposes of this subchapter—

''(1) IN GENERAL.—The term 'clean energy coal bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean energy coal bond limitation under subsection (b)(2);

''(B) 100 percent of the available project proceeds from the sale of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects;

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form; and

''(D) in lieu of the requirements of section 54A(d)(2), the issue meets the requirements of subsection (c).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means a qualified clean coal project (as defined in subsection (f)(1)) placed in service by a qualified borrower.

''(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean energy coal bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

''(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean energy coal bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean energy coal bond;

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

''(iii) reimbursement is not made later than 18 months after the date the original expenditure is paid or the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

''(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean energy coal bond.

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

''(1) NATIONAL LIMITATION.—There is a national clean energy coal bond limitation of $5,000,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

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

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

''(A) 100 percent or more of the available project proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond;

''(B) a binding commitment with a third party to spend at least 10 percent of such available project proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a

clean energy bond the available project proceeds of which are to be loaned to 2 or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower; and

''(C) such projects will be completed with due diligence and the available project proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 100 percent of the available project proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified 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.

''(d) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

''(1) 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), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

''(2) CLEAN ENERGY BOND LENDER.—The term 'clean 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.

''(3) PUBLIC POWER ENTITY.—The term 'public power entity' 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 enactment of this paragraph).

''(4) QUALIFIED ISSUER.—The term 'qualified issuer' means—

''(A) a clean energy bond lender;

''(B) a cooperative electric company; or

''(C) a public power entity.

''(5) QUALIFIED BORROWER.—The term 'qualified borrower' means—

''(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or

''(B) a public power entity.

''(e) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

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

''(1) QUALIFIED CLEAN COAL PROJECT.—For purposes of this section, the term 'qualified clean coal project' means—

''(A) an atmospheric pollution control facility (within the meaning of section 169(d)(5)(C));

''(B) a closed-loop biomass facility (within the meaning of section 45(d)(2));

''(C) a qualified new clean coal power plant (within the meaning of section 48C(d)(1));

''(D) qualifying carbon dioxide equipment described in section 48D(c)(1); or

''(E) a qualified facility (within the meaning of section 450(c)).

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(g) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2018.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended to read as follows:

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

''(A) a qualified forestry conservation bond, or

''(B) a clean energy coal 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) of such Code is amended to read as follows:

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

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a clean energy coal bond, a purpose specified in section 54C(f)(1).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 54C. Clean energy coal bonds.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2008.

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**SA 4957.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XVII, add the following:

**Subtitle H—Requirement of Electric Utilities Relating to Increases in Electric Utility Bills of Consumers**

**SEC. 1771. REQUIREMENT OF ELECTRIC UTILITIES.**

(a) FINDINGS.—Congress finds that—

(1) this Act will increase the cost of electricity paid by consumers; and

(2) consumers have a right to know the additional amounts that this Act contributes to the electric utility bills of the consumers.

(b) REQUIREMENT.—Any electric utility that includes an increase in the amount of the electric utility bill of a consumer of the electric utility resulting from the implementation of this Act shall include in the electric utility bill of the consumer a clear and concise description of each factor that resulted in the increase of the amount.

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**SA 4958.** Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. INHOFE, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 423, after line 25, insert the following:

**SEC. 1308. CERTIFICATION OF INTERNATIONAL COMPLIANCE.**

The emission limitations required by this Act for calendar year 2012 shall not take effect until such date as the Senate ratifies an international climate change agreement pursuant to the Convention that—

(1) covers, at a minimum, all economies as identified by the Major Economies Process on Energy Security and Climate Change who initially convened in Washington, DC, on September 27, 2007;

(2) requires the enactment into law by each participating country of a national program that requires and demonstrates greenhouse gas emission reduction and enforcement mechanisms comparable to the reduction requirements and enforcement mechanisms of the United States;

(3) requires each participating country to enforce a program consistent with article 5 of the North American agreement on environmental cooperation (with annexes), done at Mexico, Washington, and Ottawa September 8, 9, 12, and 14, 1993, and entered into force on January 1, 1994;

(4) establishes globally agreed-upon standards for the measurement of greenhouse gas emissions and sinks; and

(5) requires annual reporting of greenhouse gas emissions based on the established standards.

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**SA 4959.** Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 142, strike lines 14 through 19 and insert the following:

**SEC. 432. PURPOSE.**

The purpose of the board established by section 431 is to advance the purposes of this Act by—

(1) assessing and certifying the extent to which technology is available to achieve the emission reductions required by this Act in accordance with section 436; and

(2) subject to certification under that section, using the funds made available to the board under titles VIII through XI to accelerate the commercialization and diffusion of low- and zero-carbon technologies and practices.

Beginning on page 145, strike line 17 and all that follows through page 147, line 14, and insert the following:

**SEC. 436. REQUIREMENTS.**

(a) COMPOSITION.—The board established by section 431 (referred to in this section as the ''board'') shall be composed of—

(1) the Director of the Office of Science and Technology Policy, who shall serve as chairperson of the board;

(2) the Secretary of Agriculture;

(3) the Secretary of Commerce;

(4) the Secretary of Energy; and

(5) the Administrator.

(b) ASSESSMENT; CERTIFICATION.—

(1) ASSESSMENT.—As soon as practicable after the date of enactment of this Act, and not less frequently than once every 2 years thereafter, the board shall assess, based on the best available technology in the electric power, industrial, and transportation sectors—

(A) the extent to which technology is available to achieve the emission reductions required by this Act, including an assessment of technologies lagging in development or widespread commercial deployment, or both;

(B) the extent to which technology is cost-effective in achieving the reductions required by this Act;

(C) the impact of the use of technology on the public health and the environment;

(D) the impact of the use of technology on the energy security of the United States; and

(E) the impact of the use of the technology to achieve emission reductions on job creation, the price and supply of agricultural commodities, and rural economic development.

(2) REPORT AND CERTIFICATION.—On completion of each assessment under paragraph (1), the board shall submit to Congress—

(A) a report describing the results of the assessment; and

(B) if applicable, a certification that the technology necessary to reduce emissions in accordance with the requirements of this Act is available, cost-effective, and environmentally sound for the electric power, industrial, and transportation sectors.

(3) EFFECT ON EMISSION LIMITATIONS.—

(A) INITIAL PERIOD.—No emission limitation established by this Act shall apply until such date as the board submits the initial certification required under paragraph (2)(B).

(B) SUBSEQUENT PERIODS.—No adjustment to an emission limitation required by this Act shall apply until such date as the board submits the certification required under paragraph (2)(B) for the period during which the adjustment is scheduled to occur.

(c) NATIONAL RESEARCH COUNCIL REPORTS.—The board may request from the National Research Council such reports as the board determines to be necessary and appropriate to assist the board in carrying out this subtitle.

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**SA 4960.** Mr. VITTER (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—ENERGY NEEDED OFFSHORE UNDER GAS HIKES**

**SEC. 1801. DEFINITIONS.**

In this title:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil leasing, natural gas leasing, or both.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil or natural gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under section 3(a).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 1802. OIL AND NATURAL GAS LEASING IN NEW PRODUCING AREAS.**

(a) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, during any period in which the price per gallon of regular gasoline is equal to or greater than $5, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for oil leasing, gas leasing, or both, as determined by the State, in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) NATURAL GAS LEASING ONLY.—The Governor of a State, with the concurrence of the State legislature, may, in a petition submitted under paragraph (1), make a request to allow natural gas leasing only.

(3) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(b) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 25 percent of qualified revenues in the general fund of the Treasury; and

(2) 75 percent of qualified revenues in a special account in the Treasury, from which the Secretary shall disburse—

(A) 37.5 percent to eligible producing States for new producing areas, to be allocated in accordance with subsection (c)(1);

(B) 12.5 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8);

(C) 5 percent to small business development centers to provide—

(i) technical assistance to small businesses relating to beginning operation; or

(ii) ongoing counseling;

(D) 5 percent to carry out programs under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.);

(E) 5 percent to provide assistance under the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(F) 2.5 percent to provide assistance under the Maternal and Child Health Block Grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(G) 2.5 percent to States for historic offshore production distribution; and

(H) 5 percent of qualified revenues to the Highway Trust Fund.

(c) ALLOCATION TO ELIGIBLE PRODUCING STATES.—

(1) IN GENERAL.—The amount made available under subsection (b)(2)(A) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(2) USE.—Amounts allocated to an eligible producing State under paragraph (1) shall be used to address the impacts of any oil and natural gas exploration and production activities under this title.

(d) EFFECT.—Nothing in this title affects—

(1) the amount of funds otherwise dedicated to the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5); or

(2) any authority that permits energy production under any other provision of law.

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**SA 4961.** Mr. VITTER (for himself and Mr. CRAIG, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE XVIII—ENERGY NEEDED OFFSHORE UNDER GAS HIKES**

**SEC. 1801. DEFINITIONS.**

In this title:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil leasing, natural gas leasing, or both.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil or natural gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under section 3(a).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 1802. OIL AND NATURAL GAS LEASING IN NEW PRODUCING AREAS.**

(a) DETERMINATION BY SECRETARY.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall determine whether, as a result of the requirements of this Act, the national average residential natural gas price has increased during the period beginning on the date of enactment of this Act and ending on the date on which the determination is made.

(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary determines that an increase in the national average residential natural gas price has occurred, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for natural gas leasing in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) NATURAL GAS LEASING ONLY.—The Governor of a State, with the concurrence of the State legislature, may, in a petition submitted under paragraph (1), make a request to allow natural gas leasing only.

(3) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 25 percent of qualified revenues in the general fund of the Treasury; and

(2) 75 percent of qualified revenues in a special account in the Treasury, from which the Secretary shall disburse—

(A) 37.5 percent to eligible producing States for new producing areas, to be allocated in accordance with subsection (d)(1);

(B) 12.5 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8);

(C) 5 percent to small business development centers to provide—

(i) technical assistance to small businesses relating to beginning operation; or

(ii) ongoing counseling;

(D) 5 percent to carry out programs under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.);

(E) 5 percent to provide assistance under the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(F) 2.5 percent to provide assistance under the Maternal and Child Health Block Grant under title V of the Social Security Act (42 U.S.C. 701 et seq.);

(G) 2.5 percent to States for historic offshore production distribution; and

(H) 5 percent of qualified revenues to the Highway Trust Fund.

(d) ALLOCATION TO ELIGIBLE PRODUCING STATES.—

(1) IN GENERAL.—The amount made available under subsection (c)(2)(A) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(2) USE.—Amounts allocated to an eligible producing State under paragraph (1) shall be used to address the impacts of any oil and natural gas exploration and production activities under this title.

(e) EFFECT.—Nothing in this title affects—

(1) the amount of funds otherwise dedicated to the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5); or

(2) any authority that permits energy production under any other provision of law.

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**SA 4962.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environment Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**Subtitle J—Protection From Job Loss**

**SEC. 591. PROTECTION FROM JOB LOSS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall submit to the Administrator and Congress a report describing whether more than 5,000 employees in manufacturing-related jobs in natural gas-intensive sectors (such as the fertilizer, cement, and pharmaceutical sectors) of the United States would be displaced during the following calendar year as a result of the implementation of this Act.

(b) ADJUSTMENT OF ALLOWANCES.—If a report under subsection (a) indicates that more than 5,000 employees in manufacturing-related jobs in natural gas-intensive sectors (such as the fertilizer, cement, and pharmaceutical sectors) of the United States would be displaced during the following calendar year as a result of the implementation of this Act, the Administrator, in consultation with the Secretary of Labor, shall increase the quantity of emission allowances provided under this Act for that calendar year, as the Secretary of Labor determines to be appropriate, to ensure that not more than 5,000 employees in manufacturing-related jobs in natural gas-intensive sectors (such as the fertilizer, cement, and pharmaceutical sectors) of the United States would be so displaced.

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**SA 4963.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 9, strike line 1 and all that follows through page 16, line 16.

On page 17, strike lines 4 through 23.

Beginning on page 18, strike line 4 and all that follows through page 19, line 7.

On page 19, strike lines 11 through 16.

Beginning on page 19, strike line 24 and all that follows through page 23, line 8.

Beginning on page 23, strike line 12 and all that follows through page 26, line 16.

On page 27, strike lines 1 through 23.

Beginning on page 28, strike line 3 and all that follows through page 29, line 4.

Beginning on page 29, strike line 8 and all that follows through page 30, line 19.

On page 31, strike lines 5 through 18.

On page 38, strike lines 14 through 18.

On page 41, strike lines 4 through 8.

On page 43, strike lines 1 through 5.

On page 52, strike lines 3 through 7.

Beginning on page 63, strike line 8 and all that follows through the end.

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**SA 4964.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XI, add the following:

**SEC. 11___. SENSE OF SENATE ON ASSISTING CONSUMERS WITH GASOLINE AND DIESEL PRICES.**

(a) FINDINGS.—Congress finds that—

(1) consumers are paying more than $2.50 more for a gallon of gasoline or diesel than they paid just 7 years ago, in January 2001, when gas averaged $1.37 per gallon and diesel averaged $1.52 per gallon;

(2) the 5 large integrated oil companies alone tripled their profits during the period of 2001 through 2007, when the profit of those companies increased from $39,000,000,000 to $116,000,000,000;

(3) tax breaks for major integrated oil companies are worth billions of dollars each year;

(4) high energy prices are harming households, the economy, and the competitiveness of the United States;

(5) as of the date of enactment of this Act, millions of onshore acres are under lease by the oil and natural gas industry for exploration and drilling, but are not being used for production;

(6) as of the date of enactment of this Act, millions of acres on the outer Continental Shelf are under lease by the oil and natural gas industry, but are not producing;

(7) the major integrated oil companies have failed to invest an adequate amount of the $600,000,000,000 in net profits the companies have collected during the past 7 years on clean and affordable domestically produced renewable fuels that can improve national security and reduce greenhouse gas emissions;

(8) according to Energy Information Administration analyses, the economy-wide carbon cap and trade system under this Act will spur the development of clean alternatives, and average household gasoline spending will decrease by 2020 because of greater fuel efficiency and changes in the fuels market;

(9) even while the Energy Information Administration projects that per-household spending on gasoline will decrease, an increase of less than 2 cents per year per gallon of fuel through 2030 would be attributable to the implementation of this Act—compared to an increase of more than 73 cents per gallon since last year at this time; and

(10) the implementation of this Act will produce cost savings through energy efficiency investments and provide funds for tax relief for consumers.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) oil companies should be—

(A) investing a significant percentage of their enormous net profits in developing clean, affordable, and domestically produced low-carbon alternatives to petroleum and other finite resources; and

(B) producing more oil and natural gas supplies from existing available leases in environmentally appropriate areas, using the best available and safest technologies;

(2) Congress should suspend royalty relief for major oil companies during times of high prices and use those revenues to assist energy consumers;

(3) Congress should eliminate tax breaks and loopholes for major oil companies and use those revenues to assist energy consumers;

(4) the President should support legislation to make price gouging a Federal crime; and

(5) the Administration should take swift action to implement existing statutory direction to limit energy market manipulation, increase transparency, and protect consumers.

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**SA 4965.** Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

On page 459, strike lines 5 through 7 and insert the following:

**SEC. 1404. DISBURSEMENTS FROM FUND.**

Except as provided in section 1780, no disbursement shall be made from the Deficit Reduction Fund, except pursuant to an appropriation Act.

At the end of title XVII, add the following:

**Subtitle H—Green Energy Production**

**SEC. 1771. SHORT TITLE.**

This subtitle may be cited as the ''Green Energy Production Act of 2008''.

**SEC. 1772. DEFINITIONS.**

In this subtitle:

(1) BIOMASS.—The term ''biomass'' has the meaning given the term ''renewable biomass'' in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)).

(2) ENVIRONMENTALLY PROTECTIVE.—The term ''environmentally protective'' means, with respect to technology, technology that—

(A) is most likely to result in the least impact to land, forests, water quantity and quality, air quality, and wildlife habitat; and

(B) possesses the highest potential for long-term sustained production of green energy.

(3) GREEN ENERGY.—

(A) IN GENERAL.—The term ''green energy'' has the meaning given the term ''renewable energy''.

(B) INCLUSION.—The term ''green energy'' includes energy derived from coal produced in a manner that—

(i) sequesters carbon from carbon dioxide emissions at a minimum 85 percent capture rate on an annual basis; and

(ii) complies with section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)).

(4) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(5) RENEWABLE ENERGY.—The term ''renewable energy'' means electric energy generated at a facility (including a distributed generation facility) from solar, wind, fuel cells, biomass, geothermal, ocean energy, or landfill gas.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) TARGET AREA.—The term ''target area'' means—

(A) an area that has experienced a significant loss of manufacturing employment;

(B) an area with a large manufacturing capacity;

(C) an area with an unemployment rate that is higher than the national average unemployment rate; and

(D) priority for an area that includes a brownfield site (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

**SEC. 1773. ESTABLISHMENT OF PROGRAM.**

The Secretary shall establish a green technology investment program to develop high-tech green research capabilities, promote green innovation and green energy investment, and increase scientific knowledge that may reveal the basis for new or enhanced products, equipment, or processes, in target areas by—

(1) assisting in the research and development of projects that design, create, or formulate new or enhanced products, equipment, or processes;

(2) expanding and supporting world-class research facilities;

(3) supporting capital formation and the development of innovative products; and

(4) financing advanced manufacturing technologies to help new and existing industries become more productive, more environmentally protective, and carbon-neutral.

**SEC. 1774. GREEN TECHNOLOGY INVESTMENT CORPORATION.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Department of Energy a corporation to be known as the ''Green Technology Investment Corporation''.

(2) MEETINGS.—The Corporation shall meet at least 4 times during each fiscal year.

(3) RULES FOR CORPORATION BUSINESS.—Not later than 1 year after the date of enactment of this Act, the Corporation shall establish rules for the conduct of business of the Corporation.

(4) APPLICABLE AUTHORITY.—The Corporation shall be subject to—

(A) subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act''); and

(B) all other Federal law applicable to quasi-autonomous agencies within the Department of Energy.

(5) ADMINISTRATIVE COSTS.—The Secretary shall—

(A) be responsible for paying all administrative costs of the Corporation; and

(B) in conjunction with the Board of Directors of the Corporation, take every reasonable action to reduce and minimize administrative costs of carrying out this section and the program.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Corporation shall consist of 7 members, appointed by the President, by and with the advice and consent of the Senate, who are—

(A) leaders from industry, labor, academia, government, and nongovernment organizations; and

(B) selected based on having the necessary expertise—

(i) to build world-class applied research capability;

(ii) to assist entrepreneurial innovators in accelerating formation and attraction of technology-based businesses;

(iii) to create product innovation;

(iv) to market the manufacturing competitiveness of the United States;

(v) to create domestic jobs and skills development opportunities in emerging domestic markets; and

(vi) to evaluate and advise on environmental sustainability and climate change.

(2) CHAIRPERSON.—The President shall appoint, by and with the advice and consent of the Senate, 1 member of the Board of Directors to serve as Chairperson

(c) TERM OF SERVICE.—

(1) IN GENERAL.—Each member of the Board of Directors shall be appointed for a term of 5 years.

(2) ADDITIONAL TERMS.—The President may appoint, by and with the advice and consent of the Senate, a member of the Board to serve additional terms of service.

(d) RESPONSIBILITIES.—The Corporation shall allocate funds, provide grants, and carry out programs under section 1776, for all phases of technology commercialization, in accordance with this subtitle.

**SEC. 1775. GREEN TECHNOLOGY INVESTMENT FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Green Technology Investment Fund'' (referred to in this section as the ''Fund''), consisting of such amounts as are appropriated to the Fund under section 1780.

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Corporation, the Secretary of the Treasury shall transfer from the Fund to the Corporation such amounts as the Corporation determines are necessary to provide grants, loans, and other assistance, and otherwise carry out programs, under this subtitle (other than section 1778).

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subtitle.

(c) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

**SEC. 1776. COMPONENT PROGRAMS.**

(a) GREEN DEVELOPMENT LOANS.—The Corporation shall establish and carry out a loan program to carry out the purposes described in section 1773 (including conducting, or providing for the conduct of, scientific or technological inquiry and experimentation in the physical sciences).

(b) GREEN MARKETS PROGRAM.—The Corporation shall establish and carry out a grant program—

(1) to assist entities, including entities that are not eligible for small business innovative research funding, to receive grants to commercialize green energy products; and

(2) to assist small and medium-sized businesses with funding to acquire, renovate, or construct facilities or purchase of equipment for—

(A) research programs;

(B) technology development;

(C) product development; and

(D) commercialization programs.

(c) GREEN REDEVELOPMENT, OPPORTUNITY, AND WORKFORCE GRANTS.—The Corporation shall establish and carry out a grant program—

(1) to assist small and medium-sized businesses in accelerating new product development and commercialization of technology products;

(2) to assist small and medium-sized businesses in capitalizing on early-stage investment, particularly those businesses that provide evidence of a capability to meet a green marketplace need;

(3) to create and maintain jobs within the United States;

(4) to assist local governments in improving infrastructure for related businesses in accordance with this section;

(5) to seek and develop innovative ways of assisting businesses and communities in achieving the goals of this subtitle;

(6) to redeploy underused manufacturing capacity;

(7) to capitalize on export opportunities;

(8) to revitalize depressed manufacturing communities; and

(9) to search for and develop innovative ways to design environmentally protective technologies and best practices and demonstrate commercial green energy production.

(d) GREEN ENERGY MANUFACTURING LOANS.—The Corporation shall establish a program to encourage financial institutions approved by the Corporation to make loans to for-profit or nonprofit small businesses that are having difficulty obtaining business loans through conventional underwriting standards.

(e) GREEN ENERGY COMMUNITY PILOT PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a pilot program under which the Corporation shall provide grants to 5 green energy communities designated by the Corporation to assist the communities—

(A) to establish models for green energy communities;

(B) to reduce the traditional energy consumption of the communities by using more green energy and reducing energy consumption through innovative efficiency programs; and

(C) to lower energy costs for consumers and local government organizations.

(2) ELIGIBILITY.—To be eligible for designation as a green energy community under this subsection, a community shall be a target area.

(3) DURATION.—

(A) IN GENERAL.—The Corporation shall make grants to green energy communities

designated under this subsection for a term of 10 years.

(B) RENEWAL.—Grants made to a green energy community under this subsection may be renewed for additional 10-year terms if the community continues to meet the eligibility requirements of paragraph (2).

(f) GREEN ENERGY INSTITUTION OF HIGHER EDUCATION PILOT PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a pilot program under which the Corporation shall provide grants to 5 green energy institutions of higher education designated by the Corporation to assist the institutions of higher education—

(A) to establish models for green energy institutions of higher education;

(B) to reduce the traditional energy consumption of the institutions of higher education by using more green energy and reducing energy consumption through innovative efficiency programs; and

(C) to lower energy costs for the institutions of higher education and students.

(2) ELIGIBILITY.—To be eligible for designation as a green energy institution of higher education under this subsection, an institution of higher education shall be located in a target area.

(3) DURATION.—The Corporation shall make grants to green energy institutions of higher education designated under this subsection for a term of 10 years.

(g) NATIONAL GUARD BASE GREEN ENERGY GRANT PILOT PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a pilot program under which the Corporation shall provide grants to 5 States for green energy National Guard bases designated by the Corporation to assist the National Guard bases in those States—

(A) to establish models for green energy National Guard bases;

(B) to reduce the traditional energy consumption of the National Guard bases by using more green energy and reducing energy consumption through innovative efficiency programs; and

(C) to lower energy costs for the National Guard and States.

(2) ELIGIBILITY.—To be eligible for designation as a green energy National Guard base under this subsection, a National Guard base shall be located in a target area.

(3) DURATION.—The Corporation shall make grants to green energy National Guard bases designated under this subsection for a term of 10 years.

(h) GREEN ENERGY TECHNOLOGY INTERNSHIP PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a green energy technology internship program under which—

(A) students and educators at colleges and universities in the United States are paired with businesses of all sizes in the United States; and

(B) those businesses are encouraged—

(i) to develop cutting-edge, high-tech skills in participating students; and

(ii) to ultimately offer full-time employment to those students after graduation.

(2) GOAL.—The Corporation shall establish as a goal for the green energy technology internship program the reimbursement by the Corporation, of not more than the greater of 50 percent or $5,000 of the wages paid to a participating student or educator, on the condition that, in the case of a participating student, the business strives for the possibility of full-time employment of the student after graduation.

(3) REQUIREMENTS.—The Corporation shall establish requirements for participation in the green energy technology internship program, including requirements relating to—

(A) the eligibility of students, educators, and businesses to participate in the program; and

(B) application contents and procedures.

(i) GREEN ENERGY TECHNOLOGY APPRENTICESHIP PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a green energy technology apprenticeship program under which—

(A) apprentices and employers in the United States are paired with businesses of all sizes in the United States; and

(B) those businesses are encouraged—

(i) to develop cutting-edge, high-tech skills in participating students;

(ii) to ultimately offer full-time employment to those students after completion; and

(iii) to work closely with organized labor.

(2) GOAL.—As a goal for the green energy technology apprenticeship program, the Corporation shall, to the maximum extent practicable, provide reimbursement for not more than the higher of 50 percent or $5,000 of the wages paid to a participating apprentice, if the business paired with the apprentice agrees to make every effort to offer full-time employment to the apprentice on the completion of the apprenticeship.

(3) REQUIREMENTS.—The Corporation shall establish requirements for participation in the green energy technology apprenticeship program, including requirements relating to—

(A) the eligibility of apprentices, organized labor, trades, and businesses to participate in the program;

(B) partnerships with organized labor apprenticeship programs; and

(C) application contents and procedures.

**SEC. 1777. CRITERIA FOR PROVISION OF GRANTS, LOANS, AND OTHER ASSISTANCE.**

(a) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—The Corporation shall provide grants, loans, and other assistance in accordance with the programs under section 1776 for projects that, as determined by the Corporation—

(A) offer the best technology, research, and commercialization for the United States;

(B) permit anticipation and action on market opportunities;

(C) encourage industry involvement;

(D) facilitate investment at the intersection of core competency areas;

(E) recruit world-class talent and high-growth companies;

(F) create economic opportunity for target areas;

(G) engage regional partners;

(H) emphasize accountability and metrics;

(I) upon completion, will serve as sites and facilities primarily intended for commercial, industrial, or manufacturing use; and

(J) advance environmental protection.

(2) PRIORITY.—In carrying out paragraph (1), the Corporation—

(A) shall give priority to—

(i) renewable energy, carbon-neutral projects; and

(ii) projects that advance environmentally protective goals, with a particular emphasis on best practices and innovative technology that reduce negative impacts on a commercial scale; and

(B) may consider and give priority to the potential of a project to develop or improve innovative, cutting-edge technology for green energy projects that are carbon neutral.

(b) BASIS.—A grant, loan, or other assistance provided under this subtitle—

(1) shall be based on the best available technology, research, and commercialization, with a focus on diversity of green technologies; and

(2) shall not be provided solely on a geographical basis.

(c) ELIGIBLE APPLICANTS.—The Corporation may provide a grant, loan, or other assistance under this subtitle to—

(1) a political subdivision or nonprofit economic development organization;

(2) a municipality, local government, community, or institution of higher education (including a technical educational institution); and

(3) a private, for-profit entity, with the unanimous approval by the Board of Directors of the Corporation.

(d) FUNDS ALLOCATED.—The Corporation shall determine the maximum and minimum amount provided for each program and program recipient under this subtitle in order to maximize the purposes of this subtitle.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Corporation shall submit to Congress a report that describes all activities of the Corporation carried out using funds made available under this subtitle, including, for the year covered by the report, a description of—

(1) each grant, loan, or other award of assistance provided under this subtitle; and

(2) the reason for each grant, loan, or other award.

**SEC. 1778. ENERGY EFFICIENCY GRANTS.**

(a) IN GENERAL.—The Secretary shall establish an energy efficiency grant program under which the Secretary shall provide grants to eligible recipients, on a dollar-for-dollar matching basis, for implementing conservation programs that are designed to reduce consumer energy use to the maximum extent practicable.

(b) ELIGIBLE RECIPIENTS.—Recipients that are eligible to receive grants under this section include—

(1) energy producers;

(2) municipal power organizations; and

(3) rural electric cooperatives.

(c) PRIORITY.—In making grants under this section, the Secretary shall give priority to programs that are designed to reduce consumer end-use of energy over programs that are designed to reduce the consumer use of energy.

(d) REDUCTION IN ENERGY USES.—In making grants under this section, the Secretary shall allocate grants, and provide minimum and maximum award criteria for the grants, in a manner that maximizes the reduction in energy use.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2009 through 2013.

**SEC. 1779. ADMINISTRATION.**

Notwithstanding any other provision of this subtitle, none of the funds made available to carry out this subtitle may be used to carry out any project, activity, or expense that is not located within the United States.

**SEC. 1780. AUTHORIZATION OF APPROPRIATIONS.**

Of amounts deposited in the Deficit Reduction Fund under section 1403, the Secretary of the Treasury shall transfer to the Fund to carry out this subtitle (other than section 1778), to remain available until expended—

(1) $1,000,000,000 for fiscal year 2009;

(2) $5,000,000,000 for fiscal year 2010; and

(3) $10,000,000,000 for each of fiscal years 2011 through 2013.

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**SA 4966.** Mr. BROWN (for himself, Ms. STABENOW, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 183, strike line 15 and all that follows through page 184, line 1, and insert the following:

(b) QUANTITIES OF EMISSION ALLOWANCES ALLOCATED.—The quantity of emissions allowances allocated pursuant to subsection (a) shall be represented by the following percentages:

| Calendar year | Percentage for distribution |
|---|---|
| 2012-2021 | 15 |
| 2022 | 15 |
| 2023 | 15 |
| 2024 | 15 |
| 2025 | 15 |
| 2026 | 15 |
| 2027 | 15 |
| 2028 | 15 |
| 2029 | 15 |
| 2030 | 15. |

(c) CONDITIONAL PHASE-OUT.—

(1) IN GENERAL.—If the President determines that, as a result of international global warming agreements, the problem of diversion of manufacturing from United States facilities to facilities of foreign countries without greenhouse gas regulation is mitigated sufficiently to substantially reduce the competitive disadvantage of United States manufacturers in domestic or international markets as a result of this Act, the President shall provide to the Administrator a notification of the determination.

(2) ACTION BY ADMINISTRATOR.—On receipt of a notification under paragraph (1), the Administrator, by regulation, shall—

(A) reduce the quantity of emission allowances provided under this subtitle sufficient to reflect the reduced competitive harm caused to energy-intensive manufactures as a result of this Act; or

(B) if the President determines that the competitive disadvantage to United States manufacturing has been eliminated, terminate allocations of emission allowances under this subtitle.

**SEC. 542. DISTRIBUTION.**

On page 185, strike line 18 and insert the following:

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the

On page 185, after line 24, insert the following:

(2) REQUIREMENTS.—

(A) CONSIDERATION OF COSTS.—In establishing the system under paragraph (1), the Administrator shall take into consideration all categories of cost increases resulting from the implementation of this Act, including—

(i) cost increases relating to direct emissions (including process emissions) and indirect emissions; and

(ii) any increase in the cost of natural gas or any other relatively carbon-efficient fuel as a result of fuel substitution and related effects.

(B) CATEGORIES OF CURRENTLY OPERATING FACILITIES.—For purposes of subsection (d), the Administrator shall establish, by regulation, appropriate categories of currently operating facilities, including reasonable industry subsectors within a category, as the Administrator determines to be necessary to avoid inequitable distributions, taking into account the existence of currently operating facilities that—

(i) qualify as energy-intensive facilities; but

(ii) are affiliated with entities with substantially different emission or energy-consumption profiles.

(C) ALLOCATIONS TO INDIVIDUAL FACILITIES.—In establishing the system under paragraph (1), to fully reflect year-to-year changes in aggregate production levels, the Administrator shall provide for an adjustment factor for allocations to individual facilities under subsection (e) equal to the product obtained by multiplying—

(i) the quantity of emission allowances that would otherwise be allocated to an individual facility under subsection (e); and

(ii) the ratio that—

(I) the output from the individual facility during the calendar year immediately preceding the year of the distribution; bears to

(II) the average output from all individual facility during the 3-calendar year period ending on the date of enactment of this Act.

(D) MAXIMUM QUANTITY.—In establishing the system under paragraph (1), the Administrator shall—

(i) ensure that the total quantity of emission allowances allocated to all facilities under this section for a calendar year does not exceed a quantity sufficient to offset the increases in costs of the facilities resulting from the implementation of this Act; and

(ii) if the Administrator determines that, for any calendar year, the total quantity of emission allowances allocated to all facilities under this section is less than or greater than the quantity described in clause (i), adjust allocations for subsequent calendar years appropriately, in accordance with procedures to be established by the Administrator.

Beginning on page 188, strike line 9 and all that follows through page 189, line 3, and insert the following:

(f) TRANSITION TO INTENSITY-BASED ALLOCATIONS.—

(1) IN GENERAL.—Not later than 2 year after the date of enactment of this Act, the Administrator shall establish, by regulation, a revised method of allocating emission allowances under this subtitle to carbon-intensive industries, in accordance with this subsection, based on benchmarks for the emission efficiency or energy efficiency of each manufacturing process used in an industry of a facility that receives emission allowances under this subtitle.

(2) PHASE-IN SCHEDULE.—The revised method established under paragraph (1) shall—

(A) be implemented for calendar year 2017; and

(B) be phased into use uniformly and appropriately to ensure that the revised method is fully in effect for calendar year 2030.

(3) TOTAL QUANTITY OF ALLOWANCES.—The total quantity of emission allowances to be distributed for each calendar year shall be the quantity determined in accordance with section 541(b).

(4) MANUFACTURING PROCESSES.—

(A) IDENTIFICATION OF PROCESSES.—The Administrator, in consultation with affected industries, shall identify, by regulation, each manufacturing process that will be subject to the revised method established under this subsection, including by examining and categorizing existing manufacturing processes used by the affected industries.

(B) EXEMPTION.—The Administrator shall exempt from identification under subparagraph (A) any process that—

(i) is used by few facilities; or

(ii) results in relatively small total production rate.

(5) BENCHMARKS.—The Administrator shall establish benchmarks for emission efficiency and energy efficiency for purposes of this subsection—

(A) based on the average efficiency of all facilities in the United States in using a manufacturing process, such that, on a graduated basis—

(i) any facility with above-average efficiency receives proportionately more emission allowances under this subtitle; and

(ii) any facility with below-average efficiency receives proportionately fewer emission allowances under this subtitle; and

(B) in a manner that reflects factors under the control of facilities, including by—

(i) establishing a formula for conversion of kilowatt hours to emissions produced, with respect to indirect emissions of facilities; and

(ii) priority given to energy efficiency, except in any case in which energy efficiency and emission efficiency are poorly correlated.

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**SA 4967.** Mr. BROWN (for himself, Mr. LEVIN, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Strike the table that appears on page 217, after line 21, and insert the following:

| Calendar year | Percent for allocation among States relying heavily on manufacturing and coal |
|---|---|
| 2012 | 6 |
| 2013 | 6 |
| 2014 | 6 |
| 2015 | 6 |
| 2016 | 6.25 |
| 2017 | 6.25 |
| 2018 | 6.25 |
| 2019 | 6.25 |
| 2020 | 6.25 |
| 2021 | 7.25 |
| 2022 | 7.25 |
| 2023 | 7.5 |
| 2024 | 7.5 |
| 2025 | 7.5 |
| 2026 | 7.5 |
| 2027 | 7.5 |
| 2028 | 7.5 |
| 2029 | 7.5 |
| 2030 | 7.5 |
| 2031 | 8 |
| 2032 | 8 |
| 2033 | 8 |
| 2034 | 8 |
| 2035 | 8 |
| 2036 | 8 |
| 2037 | 8 |
| 2038 | 8 |
| 2039 | 8 |
| 2040 | 8 |
| 2041 | 8 |
| 2042 | 8 |
| 2043 | 8 |
| 2044 | 8 |
| 2045 | 8 |
| 2046 | 8 |
| 2047 | 8 |
| 2048 | 8 |
| 2049 | 8 |
| 2050 | 8. |

Beginning on page 218, strike line 4 and all that follows through page 219, line 9, and insert the following:

(1) MANUFACTURING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for each calendar year ½ of the quantity of emission allowances shall

be distributed among the States based on the proportion that—

(i) the average annual per-capita employment in manufacturing in a State during the period beginning on January 1, 1988, and ending on December 31, 1992, as determined by the Secretary of Labor; bears to

(ii) the average annual per-capita employment in manufacturing in all States during the period beginning on January 1, 1988, and ending on December 31, 1992, as determined by the Secretary of Labor.

(B) EXCEPTION.—

(i) DEFINITION OF QUALIFYING STATE.—In this subparagraph, the term ''qualifying State'' means a State in which the ratio that the manufacturing-related gross State product bears to the total gross State product exceeds 0.15.

(ii) ALLOCATION TO QUALIFYING STATES.—Notwithstanding subparagraph (A), the emission allowances available for allocation to a qualifying State under subsection (a) for a calendar year shall be a quantity equal to the product obtained by multiplying—

(I) the annual per-capital employment in manufacturing in the qualifying State during the period beginning on January 1, 1998, and ending on December 31, 1992, as determined by the Secretary of Labor; and

(II) 2.

(2) COAL.—For each calendar year, ½ of the quantity

Strike the table that appears on page 241, after line 21, and insert the following:

| Calendar Year | Percentage for State leaders in reducing greenhouse gas emissions and improving energy efficiency |
|---|---|
| 2012 | 1 |
| 2013 | 1 |
| 2014 | 1 |
| 2015 | 1 |
| 2016 | 1.25 |
| 2017 | 1.25 |
| 2018 | 1.55 |
| 2019 | 1.75 |
| 2020 | 2 |
| 2021 | 1 |
| 2022 | 2 |
| 2023 | 2.25 |
| 2024 | 2.5 |
| 2025 | 2.75 |
| 2026 | 3 |
| 2027 | 3.25 |
| 2028 | 3.5 |
| 2029 | 3.75 |
| 2030 | 4 |
| 2031 | 5 |
| 2032 | 6 |
| 2033 | 6 |
| 2034 | 6 |
| 2035 | 6 |
| 2036 | 6 |
| 2037 | 6 |
| 2038 | 6 |
| 2039 | 6 |
| 2040 | 6 |
| 2041 | 6 |
| 2042 | 6 |
| 2043 | 6 |
| 2044 | 6 |
| 2045 | 6 |
| 2046 | 6 |
| 2047 | 6 |
| 2048 | 6 |
| 2049 | 6 |
| 2050 | 6. |

**SA 4968.** Mr. BROWN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**Subtitle J—Economic Diversification**

**SEC. 591. ECONOMIC DIVERSIFICATION INITIATIVE.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Economic Diversification Fund''.

(b) AUCTIONS.—

(1) IN GENERAL.—For each of calendar years 2012 through 2050, the Administrator shall auction, in accordance with paragraph (2), 1 percent of the emission allowances established pursuant to section 201(a) for the calendar year to raise funds for deposit in the Economic Diversification Fund.

(2) NUMBER; FREQUENCY.—For each calendar year during the period described in paragraph (1), the Administrator shall—

(A) conduct not fewer than 4 auctions; and

(B) schedule the auctions in a manner to ensure that—

(i) each auction takes place during the period beginning 330 days before, and ending 60 days before, the beginning of each calendar year; and

(ii) the interval between each auction is of equal duration.

(3) DEPOSIT OF PROCEEDS.—The Administrator shall deposit all proceeds of auctions conducted pursuant to this subsection in the Economic Diversification Fund, immediately on receipt of the proceeds.

(c) TRANSFER.—On request of the Secretary of Energy, the Secretary of the Treasury shall transfer to the Secretary of Energy such amounts in the Economic Diversification Fund as are necessary to carry out subsection (d).

(d) USE OF FUNDS.—The Secretary of Energy, acting through the Office of Fossil Energy, shall use amounts in the Economic Diversification Fund to establish a program under which the Secretary shall provide financial and technical assistance to communities to create local community reuse organizations that will, to the maximum extent practicable—

(1) assist communities in transitioning from dependence on carbon extraction industries to industries that provide greater long-term economic stability;

(2) design and implement community plans projects to assist the transition to a low carbon economy and alleviate any impact on industries and area economies; and

(3) improve infrastructure, business development activities, and workforce training programs throughout affected regions.

Strike the table that appears on page 458, after line 5, and insert the following:

| Calendar year | Percentage for auction for Deficit Reduction Fund |
|---|---|
| 2012 | 4.75 |
| 2013 | 4.75 |
| 2014 | 4.75 |
| 2015 | 5.50 |
| 2016 | 5.75 |
| 2017 | 5.75 |
| 2018 | 6.25 |
| 2019 | 6 |
| 2020 | 7 |
| 2021 | 8.5 |
| 2022 | 7.75 |
| 2023 | 8.75 |
| 2024 | 9.75 |
| 2025 | 9.75 |
| 2026 | 11.75 |
| 2027 | 11.75 |
| 2028 | 11.75 |
| 2029 | 12.75 |
| 2030 | 12.75 |
| 2031 | 18.75 |
| 2032 | 16.75 |
| 2033 | 16.75 |
| 2034 | 15.75 |
| 2035 | 15.75 |
| 2036 | 15.75 |
| 2037 | 15.75 |
| 2038 | 15.75 |
| 2039 | 15.75 |
| 2040 | 15.75 |
| 2041 | 15.75 |
| 2042 | 15.75 |
| 2043 | 15.75 |
| 2044 | 15.75 |
| 2045 | 15.75 |
| 2046 | 15.75 |
| 2047 | 15.75 |
| 2048 | 15.75 |
| 2049 | 15.75 |
| 2050 | 15.75. |

**SA 4969.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Insert where appropriate the following:

**TITLE ____—PROHIBITION ON EARMARKS**

**SEC. _01. PROHIBITION ON EARMARKS.**

(a) IN GENERAL.—It shall not be in order to consider a bill, resolution, amendment, or conference report that proposes an earmark of funds provided or made available by this Act.

(b) DEFINITION.—In this section, the term ''earmark'' means a provision or report language included primarily at the request of a Senator or a Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) PROHIBITION ON EXTRA LEGISLATIVE EARMARKS.—None of the funds provided or made available by this Act shall be committed, obligated, or expended at the request of Members of Congress or their staff through oral or written communication for projects, programs, or grants to an entity, or targeted to a specific State, locality or Congressional district, other than through a

statutory or administrative formula-driven or competitive award process.

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**SA 4970.** Mr. DEMINT (for himself, Mr. INHOFE, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. NONAPPLICABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of this Act, during the period beginning on the date on which the Administrator makes a determination described in subsection (b) and ending on the date described in subsection (c), the number of emission allowances established by the Administrator for a calendar year shall be not less than the number of emission allowances established under section 201(a) for the calendar year in which the determination is made.

(b) DESCRIPTION OF DETERMINATION.—A determination referred to in subsection (a) is a determination that, during an applicable calendar year, new nuclear power plants in the United States have commenced operation with a cumulative capacity equal to less than the applicable cumulative capacity (expressed in gigawatts electric) specified in the following table:

| Calendar year | Gigawatts electricity |
|---|---|
| 2016 | 3 |
| 2017 | 6 |
| 2018 | 9 |
| 2019 | 12 |
| 2020 | 15 |
| 2021 | 18 |
| 2022 | 21 |
| 2023 | 24 |
| 2024 | 27 |
| 2025 | 30 |
| 2026 | 33 |
| 2027 | 36 |
| 2028 | 39 |
| 2029 | 42 |
| 2030 | 45. |

(c) ENDING DATE.—The ending date referred to in subsection (a) is the date on which the Administrator determines that a sufficient quantity of new nuclear power plants have commenced operation to ensure a cumulative capacity equal to or greater than the cumulative capacity specified for the applicable calendar year under subsection (b).

(d) BIMONTHLY REPORTS.—During the period described in subsection (a), the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives bimonthly reports containing—

(1) the projected date on which a sufficient quantity of new nuclear power plants will commence operation to ensure a cumulative capacity equal to or greater than the cumulative capacity specified for the applicable calendar year under subsection (b); and

(2) recommendations of the Administrator, if any, regarding measures to achieve the cumulative capacity described in paragraph (1).

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**SA 4971.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XXVII, add the following:

**Subtitle H—Effective Date**

**SEC. 1771. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall not take effect until the President certifies to Congress that the Governments of China and India have enacted mandates on the emissions of greenhouse gases that are comparable to the mandates contained in this Act.

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**SA 4972.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

Insert where appropriate the following:

**TITLE ____—PROHIBITION ON EARMARKS**

**SEC. __01. PROHIBITION ON EARMARKS.**

(a) IN GENERAL.—It shall not be in order to consider a bill, resolution, amendment, or conference report that proposes an earmark of funds provided or made available by this Act.

(b) DEFINITION.—In this section, the term ''earmark'' means a provision or report language included primarily at the request of a Senator or a Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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**SA 4973.** Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XVII, add the following:

**SEC. 1724. AGRICULTURAL PRODUCTION COSTS STUDY.**

(a) IN GENERAL.—Not later than January 1 and July 1 of each year, the Secretary of Agriculture shall submit to the Administrator a report on the effects of this Act on the commodity cost of agricultural production.

(b) REQUIREMENTS.—The report shall include, at a minimum—

(1) the impact of natural gas prices on the cost and production of nitrogen-based fertilizer;

(2) the impact of natural gas prices on other agricultural uses of natural gas;

(3) the impact of energy prices on the operation of irrigation pumps, livestock confinement, grain drying, and other agricultural activities; and

(c) RECOMMENDATION.—Based on the severity of the effects described in the report, the Secretary shall make a recommendation as to whether the Administrator should waive any or all of the requirements of this Act as the requirements apply to agricultural activity or producers of agricultural supplies.

(d) ACTION BY ADMINISTRATION.—

(1) IN GENERAL.—After reviewing a report submitted under this section, the Administrator may waive for a 1-year period any or all of the requirements of this Act as the requirements apply to agricultural activity or to producers of agricultural supplies if the effects described in the report justify the waiver in the determination of the Administrator.

(2) PUBLICATION.—The Administrator shall—

(A) publish any determination under paragraph (1) as an interim final action in the Federal Register; and

(B) provide at least 30 days for public comment prior to the determination becoming final agency action.

(3) EXTENSION.—

(A) IN GENERAL.—At any time, subject to subparagraph (B) and based on the effects described in a subsequent report issued under this section, the Administrator may extend the duration of a waiver under paragraph (1).

(B) LIMITATION.—The length of each extension under this paragraph may not exceed 1 year.

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**SA 4974**. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

The following provisions of this bill shall have no force and effect:

Beginning on page 9, line 1 and all that follows through page 16, line 16.

On page 17, lines 4 through 23.

Beginning on page 18, line 4 and all that follows through page 19, line 7.

On page 19, lines 11 through 16.

Beginning on page 19, line 24 and all that follows through page 23, line 8.

Beginning on page 23, line 12 and all that follows through page 26, line 16.

On page 27, lines 1 through 23.

Beginning on page 28, line 3 and all that follows through page 29, line 4.

Beginning on page 29, line 8 and all that follows through page 30, line 19.

On page 31, lines 5 through 18.

On page 38, lines 14 through 18.

On page 41, lines 4 through 8.

On page 43, lines 1 through 5.

On page 52, lines 3 through 7.

Beginning on page 63, line 8 and all that follows through the end.

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**SA 4975**. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 3036, to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

The following provisions of this bill shall have no force and effect:

Sections 2 and 3.
Paragraph (3) of section 4.
Paragraphs (5) through (8) of section 4.
Paragraph (10) of section 4.
Paragraphs (12) through (18) of section 4.
Paragraphs (20) through (29) of section 4.
Paragraphs (31) through (33) of section 4.
Paragraphs (35) through (39) of section 4.
Paragraphs (41) through (46) of section 4.
Paragraphs (49) through (51) of section 4.
Subsection (f) of section 111.
Subsection (f) of section 112.
Subsection (d) of section 113.
Subsection (g) of section 114.
Title II and all that follows through the end of the bill.

## NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, June 12, 2008, at 2:15 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the relationship between U.S. renewable fuels policy and food prices.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Tara Billingsley or Rosemarie Calabro.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled. The hearing will be held on Wednesday, June 18, 2008, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the preparedness of Federal land management agencies for the 2008 wildfire season.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Rachel_pasternack@energy.senate.gov.

For further information, please contact Scott Miller or Rachel Pasternack.

## AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 5, 2008, at 2:30 p.m. to hold a closed hearing.

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

## PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Matt Smith, an intern on the staff of the Finance Committee, and Bruce Fergusson, a fellow in my Senate office, be allowed on the Senate floor for the duration of the debate on the climate change bill.

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

Mr. VITTER. Madam President, I ask unanimous consent that Deborah Glickson, a fellow in my office, be allowed floor privileges during the debate on this bill.

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

The Senator from Iowa is recognized.

Mr. HARKIN. I ask unanimous consent that Ellen Butler and Raj Borsellino of my staff be granted the privilege of the floor during today's session.

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

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

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

## REGARDING REQUIRING A LICENSE FOR SALVAGING ON THE COAST OF FLORIDA

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 750, S. 2482.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2482) to repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida.

There being no objection, the Senate proceeded to consider the measure.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the bill be read for a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (S. 2482) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2482

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

**SECTION 1. REPEAL OF REQUIREMENT OF LICENSE FOR EMPLOYMENT IN THE BUSINESS OF SALVAGING ON THE COAST OF FLORIDA.**

Chapter 801 of title 46, United States Code, is amended—

(1) by striking section 80102; and

(2) in the table of sections at the beginning of the chapter by striking the item relating to that section.

## REGARDING THE LEASE OR SUBLEASE OF CERTAIN PROPERTY

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 755, H.R. 3913.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3913) to amend the International Center Act to authorize the lease or sublease of certain property described in such Act to an entity other than a foreign government or international organization if certain conditions are met.

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I further ask that the bill be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the measure be printed in the RECORD.

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

The bill (H.R. 3913) was ordered to a third reading, was read the third time and passed.

## AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 311, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 311) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 311) was agreed to.

## CONGRATULATING THE ARIZONA STATE UNIVERSITY WOMEN'S SOFTBALL TEAM

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 586, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: