II

109TH CONGRESS
2D SESSION

S. 4012

To promote a substantial commercial coal-to-fuel industry and decrease the dependence of the United States on foreign oil, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To promote a substantial commercial coal-to-fuel industry and decrease the dependence of the United States on foreign oil, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Transitional Fuel Security Act of 2006''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that, as of the date of enactment of this Act—

(1) fossil fuels provide more than 85 percent of all energy consumed in the United States, with en-

ergy consumption projected to increase for at least the next 2 decades;

(2) United States oil production is at a 50-year low and continues to decline;

(3) there has not been a new oil refinery built in the United States since 1976;

(4) oil has reached prices of over $70 per barrel and is likely to remain high;

(5) the United States relies on foreign sources of oil for approximately 60 percent of oil consumed in the United States;

(6) recent world events and natural disasters have shown the vulnerability of the energy supply chain in the United States;

(7) the Fischer-Tropsch technology can produce synthetic fuels that burn cleaner than traditionally-produced fuels, by using abundant domestic coal resources;

(8) the coal reserves of the United States are estimated to be capable of producing more than 800,000,000,000 barrels of oil;

(9) the demand of the United States military for fuel products makes up 2 percent of total consumption in the United States;

(10) increases in oil costs disproportionately impact the military;

(11) as a matter of national security, agencies of the Federal Government are eager to form partnerships with the energy industry and academia to create more sources of domestic energy and lessen the dependence of the United States on foreign sources of oil;

(12) private industry is ready to commercialize the Fischer-Tropsch coal-to-fuel process, but is unable to generate necessary initial capital investment; and

(13) it is in the best public interest of the United States that industry in the United States begin transformation from largely foreign petroleum-based energy resources to domestic coal-based resources, which are abundant.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a Federal pilot program that will encourage private investment and a commitment by businesses in the United States to begin the transition to a coal-to-fuel based industry relying upon Fischer-Tropsch technology; and

(2) at the conclusion of the pilot program, to achieve the transition in a manner that is cost-neutral to the Treasury.

SEC. 3. DEFINITIONS.

In this Act:

(1) BYPRODUCT.—The term ''byproduct'' means any residual product or secondary product of the Fischer-Tropsch process that may have a commercial value, including carbon dioxide, fertilizer, hydrogen, and electricity.

(2) COAL-TO-FUEL.—The term ''coal-to-fuel'' means—

(A) with respect to a process or technology, the use of a feedstock, the majority of which is derived from the coal resources of the United States, using the class of chemical reactions known as Fischer-Tropsch, to produce synthetic fuel; and

(B) with respect to a facility, the portion of a facility that supplies inputs for the Fischer-Tropsch process, Fischer-Tropsch finished fuel production, or the capture, transportation, or sequestration of byproducts of the use of coal at the facility, including carbon emissions.

(3) FACILITY.—The term ''facility'' means a coal-to-fuel demonstration facility constructed under the Plan.

(4) INVESTOR.—The term ''investor'' means a nongovernmental entity that, in accordance with a contractual arrangement with the Secretary—

(A) invests in and holds a minority non-controlling interest in 1 or more facilities; and

(B) shares in the revenues of the facilities.

(5) PLAN.—The term ''Plan'' means the plan developed by the Secretary and submitted to Congress under section 4.

(6) RESERVE.—The term ''Reserve'' means the Strategic Petroleum Reserve established under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(8) SYNTHETIC FUEL.—The term ''synthetic fuel'' means—

(A) synthetic petroleum; or

(B) synthetic refined fuel products (including jet fuel, gasoline, diesel, and motor oil) suitable for transportation that are produced through a coal-to-fuel process.

SEC. 4. CONSTRUCTION OF COAL-TO-FUEL DEMONSTRATION FACILITIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the construction of not more than 5 coal-to-fuel demonstration facilities in accordance with this Act, including the requirements described in subsection (b).

(b) REQUIREMENTS.—The Secretary shall—

(1) provide the Federal share of the cost of the construction of the facilities through a 5-year phased sale of petroleum products from the Reserve that corresponds to the phases of construction of the facilities;

(2) in accordance with applicable law, including section 603.105 of title 10, Code of Federal Regulations (or a successor regulation)), offer to enter into contracts or cooperative agreements with investors;

(3) enter into 1 or more multiyear contracts with the Secretary of Defense under which the Department of Defense will procure substantial quantities of jet fuel and diesel produced at the facilities;

(4) enter into contracts or promulgate regulations if necessary—

(A) to resupply the Reserve at no cost with sufficient synthetic petroleum, synthetic refined fuel products, or nonsynthetic crude oil purchased with proceeds derived from the sale of synthetic fuel (whichever is determined by the Secretary to be more advantageous to the Federal Government) to compensate for petroleum products sold in accordance with paragraph (3); and

(B) as soon as practicable, if advantageous, as determined by the Secretary, to require that all petroleum requirements of the Reserve be met with synthetic fuel;

(5) produce and offer for public sale synthetic fuel products and byproducts from the facilities;

(6) in accordance with section 6, divest ownership of the facilities through public sale to nongovernmental entities; and

(7) ensure that after the Secretary has carried out the Plan, all costs and expenditures by the Federal Government under the Plan shall be fully reimbursed to the Treasury through—

(A) net revenues generated by the sale of petroleum products;

(B) resupply of the Reserve; and

(C) final divestiture and sale of all of the assets of the Federal Government under the Plan to nongovernmental entities.

(c) REVENUE.—

(1) IN GENERAL.—Except as provided in section 5(b), any revenue raised from the activities described in subsection (b) shall be used—

(A) to pay operating expenses; and

(B) to distribute profit shares to any commercial investors in accordance with contractual terms.

(2) REMAINING REVENUE.—Remaining revenue shall be deposited in the general fund of the Treasury.

(d) INCLUSIONS.—In submitting the Plan to Congress, the Secretary shall include—

(1) a description of not more than 5 proposed locations for the construction of facilities;

(2) estimated construction costs for the facilities;

(3) estimated production goals for each facility, which shall be—

(A) for at least 3 of the facilities, not less than 30,000 barrels of synthetic fuel per day; and

(B) for the remaining facilities, not less than 5,000 barrels of synthetic fuel per day;

(4) a sequestration plan for any carbon dioxide byproduct;

(5) a proposed marketing plan for all byproducts;

(6) coal procurement plans;

(7) product contracting and coordination plans with the Secretary of Defense;

(8) a phased construction plan;

(9) a plan for the phased withdrawal of petroleum products from the Reserve to finance the phased construction and operation of the facilities;

(10) proposed management plans, including the participation of investors; and

(11) a proposed plan to divest ownership of the facilities and recoup remaining expenses.

SEC. 5. NON-FEDERAL INVESTMENT.

(a) IN GENERAL.—The Federal share of the cost of construction of each facility under the Plan shall be not less than 51 percent.

(b) RETURN ON INVESTMENTS.—After recoupment of the Federal share of the construction and operation of a facility, the Secretary shall distribute profits realized from the operation of the facility to investors in an amount that is proportional to their investment.

SEC. 6. DIVESTITURE.

(a) IN GENERAL.—The Secretary shall divest ownership of the facilities not earlier than the date on which the Secretary determines that—

(1) the total production goal of 100,000 barrels of synthetic fuel per day has been met;

(2) an amount equal to or greater than the total Federal share for the construction and operation of the facilities has been deposited in the general fund of the Treasury; and

(3) a quantity of fuel equal to the quantity of petroleum products withdrawn from the Reserve under section 7(a) has been deposited in the Reserve.

(b) MANAGEMENT.—The Secretary shall manage each facility until the Secretary divests ownership of the facility.

(c) TRANSFER OF CONTRACTS.—A contract described in section 4(b)(3) shall be transferable to a subsequent owner of a facility the synthetic fuel production of which is the subject of the contract.

(d) PROHIBITION ON PURCHASE TO CLOSE.—No nongovernmental entity shall assume ownership and control of a facility for purposes of removing the facility from operation.

SEC. 7. AUTHORIZATIONS.

(a) SALE OF PETROLEUM.—

(1) IN GENERAL.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) and subject to paragraphs (2) and (3), the Secretary may sell petroleum products withdrawn from the Reserve at a public sale to finance the construction of facilities.

(2) AMOUNT.—In carrying out paragraph (1), the Secretary may sell not more than 20,000,000 barrels of petroleum products withdrawn from the Reserve each year for a period of 5 years.

(3) LIMITATION.—The Secretary may sell a total of not more than 100,000,000 barrels of petroleum under this subsection.

(b) PROCUREMENT OF REAL ESTATE.—

(1) IN GENERAL.—In selecting sites for the construction of a facility, the Secretary shall give priority to sites on Federal land.

(2) UNAVAILABILITY.—If Federal land is not available, the Secretary may procure non-Federal land.

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