

CARBON-NEUTRAL GOVERNMENT ACT OF 2007

AUGUST 3, 2007.—Ordered to be printed

Mr. WAXMAN, from the Committee on Oversight and Government Reform, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2635]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom was referred the bill (H.R. 2635) to reduce the Federal Government’s contribution to global warming through measures that promote efficiency in the Federal Government’s management and operations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Carbon-Neutral Government Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—FEDERAL GOVERNMENT INVENTORY AND MANAGEMENT OF GREENHOUSE GAS EMISSIONS

- Sec. 101. Inventory of Federal Government Greenhouse Gas Emissions.
- Sec. 102. Management of Federal Government Greenhouse Gas Emissions.
- Sec. 103. Pilot project for purchase of offsets and certificates.
- Sec. 104. Savings Clause.
- Sec. 105. Definitions.
- Sec. 106. Authorization of appropriations.

TITLE II—FEDERAL GOVERNMENT ENERGY EFFICIENCY

- Sec. 201. Federal vehicle fleets.
- Sec. 202. Agency analyses for mobility acquisitions.
- Sec. 203. Federal procurement of energy efficient products.
- Sec. 204. Federal building energy efficiency performance standards.
- Sec. 205. Management of Federal building efficiency.
- Sec. 206. Leasing.
- Sec. 207. Procurement and acquisition of alternative fuels.
- Sec. 208. Contracts for renewable energy for executive agencies.
- Sec. 209. Government Efficiency Status Reports.
- Sec. 210. OMB Government Efficiency Reports and Scorecards.
- Sec. 211. Authorization of appropriations.
- Sec. 212. Judicial review.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The harms associated with global warming are serious and well recognized. These include the global retreat of mountain glaciers, reduction in snow cover extent, the earlier spring melting of rivers and lakes, the accelerated rate of rise of sea levels during the 20th century relative to the past few thousand years, and increased intensity of hurricanes and typhoons.

(2) The risks associated with a global mean surface temperature increase above 2 °C (36 °F) above preindustrial temperature are grave. According to the Intergovernmental Panel on Climate Change, such temperature increases would increase the severity of ongoing alterations of terrestrial and marine environments, with potentially catastrophic results. Ongoing and projected effects include more prevalent droughts in dry regions, an increase in the spread of disease, a significant reduction in water storage in winter snowpack in mountainous regions with direct and important economic consequences, a precipitous rise in sea levels by the end of the century, the potential devastation of coastal communities, severe and irreversible changes to natural ecosystems such as the bleaching and destruction of much of the world’s coral, and the potential extinction of 30 percent of all living species.

(3) That these climate change risks are widely shared does not minimize the adverse effects individual persons have suffered and will suffer because of global warming.

(4) To preserve the ability to stabilize atmospheric greenhouse gas concentrations at levels likely to protect against a temperature rise above 2 °C (36 °F) will require reductions of greenhouse gas emissions of 50 percent to 85 percent globally.

(5) Achieving such reductions will require a multitude of actions across the global economy that may each address a relatively minute quantity of emissions, but will be cumulatively significant.

(6) With only 5 percent of the world population, the United States emits approximately 20 percent of the world’s total greenhouse gas emissions, and must be a leader in addressing global warming.

(7) The United States Government is the largest energy consumer in the United States and is responsible for roughly 100,000,000 metric tons of CO₂-equivalent emissions annually.

(8) A reduction in greenhouse gas emissions by Federal agencies would slow the increase of global emissions and hence of global warming. In addition, Fed-

eral action would accelerate the pace of development and adoption of technologies that will be critical to addressing global warming in the United States and worldwide.

(9) A failure by any Federal agency to comply with the provisions of this Act requiring reductions in its greenhouse gas emissions would exacerbate the pace and extent of global warming and the harms caused by the agency beyond what would otherwise occur. Although the emissions increments involved could be relatively small, such a failure allowing incrementally greater emissions would injure all United States citizens.

(10) Improved management of Government operations, including acquisitions and procurement and operation of Government facilities, can maximize the use of existing energy efficiency and renewable energy technologies to reduce global warming pollution, while saving taxpayers' money, reducing our dependence on oil, enhancing national security, cleaning the air, and protecting pristine places from drilling and mining.

(11) Enhancing the accountability and transparency of Government operations through setting milestones for agency activities, planning, measuring results, tracking results over time, and public reporting can improve Government management and make Government operations more efficient and cost effective.

TITLE I—FEDERAL GOVERNMENT INVENTORY AND MANAGEMENT OF GREENHOUSE GAS EMISSIONS

SEC. 101. INVENTORY OF FEDERAL GOVERNMENT GREENHOUSE GAS EMISSIONS.

(a) **IN GENERAL.**—Each agency shall, in accordance with the guidance issued under subsection (b), annually inventory and report its greenhouse gas emissions for the preceding fiscal year. Each such inventory and report shall indicate as discrete categories—

(1) any direct emission of greenhouse gas as a result of an activity of the agency;

(2) the quantity of indirect emissions of greenhouse gases attributable to the generation of electricity used by the agency and commercial air travel by agency personnel; and

(3) the quantity of emissions of greenhouse gases associated with the work performed for the agency by Federal contractors, comprising direct emissions and indirect emissions associated with electricity used by, and commercial air travel by, such contractors.

(b) **GUIDANCE; ASSISTANCE.**—Not later than 3 months after the date of the enactment of this Act, the Administrator shall issue guidance for agencies for conducting inventories under this section and reporting under section 102. Such guidance shall establish inventory and reporting procedures that are at least as rigorous as the inventory procedures established under the Environmental Protection Agency's Climate Leaders program and shall define the scope of the inventories of direct emissions described in subsection (a)(1) to be complete and consistent with the national obligation for reporting inventories under the United Nations Framework Convention on Climate Change. The Administrator shall provide assistance to agencies in preparing their inventories.

(c) **INITIAL INVENTORY BY AGENCIES.**—

(1) **SUBMISSION.**—Not later than 1 year after the date of the enactment of this Act, each agency shall submit to the Administrator and make publicly available on the agency's website an initial inventory of the agency's greenhouse gas emissions for the preceding fiscal year.

(2) **CERTIFICATION.**—Not later than 6 months after an agency submits an initial inventory under paragraph (1), the Administrator shall review the inventory for compliance with the guidance issued under subsection (b) and—

(A) certify that the inventory is technically valid; or

(B) decline to certify the inventory and provide an explanation of the actions or revisions that are necessary for the inventory to be certified under subparagraph (A).

(3) **REVISION.**—If the Administrator declines to certify the inventory of an agency under paragraph (2)(B), the agency shall submit to the Administrator and make publicly available on the agency's website a revised inventory not later than 6 months after the date on which the Administrator provides the agency with the explanation required by such paragraph.

(d) **FEDERAL LAND MANAGEMENT.**—Beginning not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agri-

culture shall include as a discrete category in any inventory under this section any emission of greenhouse gas and any biological sequestration of greenhouse gases associated with land managed by the Bureau of Land Management or the Forest Service. Such emissions and biological sequestration of greenhouse gases shall not be considered for the purposes of setting or measuring progress toward targets under section 102.

SEC. 102. MANAGEMENT OF FEDERAL GOVERNMENT GREENHOUSE GAS EMISSIONS.

(a) **EMISSION REDUCTION TARGETS.**—Not later than 18 months after the date of the enactment of this Act, the Administrator shall promulgate annual reduction targets for the total quantity of greenhouse gas emissions described in section 101(a), expressed as carbon dioxide equivalents, of all agencies, taken collectively, for each of fiscal years 2010 through 2050.

(b) **GOALS.**—The targets promulgated under subsection (a) shall be calculated so as—

(1) to prevent the total quantity of greenhouse gas emissions of all agencies in fiscal year 2011 and each subsequent fiscal year from exceeding the total quantity of such emissions in fiscal year 2010; and

(2) to reduce such greenhouse gas emissions as rapidly as possible, but at a minimum by a quantity equal to 2 percent of projected fiscal year 2010 emissions each fiscal year, so as to achieve zero net annual greenhouse gas emissions from the agencies by fiscal year 2050.

(c) **PROPORTIONATE SHARE.**—Each agency shall limit the quantity of its greenhouse gas emissions described in section 101(a) to its proportionate share so as to enable the agencies to achieve the targets promulgated under subsection (a). The Administrator shall promulgate annual reduction targets to be met by each agency to comply with this subsection.

(d) **AGENCY PLANS FOR MANAGING EMISSIONS.**—

(1) **SUBMISSION.**—Not later than 2 years after the date of the enactment of this Act, each agency shall develop, submit to the Administrator, and make publicly available on the agency's website a plan for achieving the annual reduction targets applicable to such agency under this section through fiscal year 2020. Not later than 2 years before the 10-year period beginning in 2021 and each subsequent 10-year period, the agency shall develop, submit to the Administrator, and make publicly available an updated plan for achieving such targets for the respective period. Each plan developed under this paragraph shall—

(A) identify the specific actions to be taken by the agency; and

(B) estimate the quantity of reductions of greenhouse gas emissions to be achieved through each such action.

(2) **CERTIFICATION.**—Not later than 6 months after an agency submits a plan under paragraph (1), the Administrator shall—

(A) certify that the plan is technically sound and, if implemented, is expected to limit the quantity of the agency's greenhouse gas emissions to its proportionate share under subsection (c); or

(B) decline to certify the plan and provide an explanation of the revisions that are necessary for the plan to be certified under subparagraph (A).

(3) **REVISION.**—If the Administrator declines to certify the plan of an agency under paragraph (2), the agency shall submit to the Administrator and make publicly available on the agency's website a revised plan not later than 6 months after the date on which the Administrator provides the agency with the explanation required by paragraph (2)(B).

(e) **EMISSIONS MANAGEMENT.**—

(1) **REQUIREMENT.**—Each agency shall manage its greenhouse gas emissions to meet the annual reduction targets applicable to such agency under this section.

(2) **REVISION OF PLAN.**—If any agency fails to meet such targets for a fiscal year, as indicated by the inventory and report prepared by the agency for such fiscal year, the agency shall submit to the Administrator and make publicly available on the agency's website a revised plan under subsection (d) not later than March 31 of the following fiscal year. The Administrator shall certify or decline to certify the revised plan in accordance with subsection (d)(2) not later than 3 months after receipt of the revised plan.

(3) **OFFSETS.**—

(A) **PROPOSAL.**—If no national mandatory economy-wide cap-and-trade program for greenhouse gases has been enacted by fiscal year 2010, the Administrator shall develop and submit to the Congress by 2011 a proposal to allow agencies to meet the annual reduction targets applicable to such agencies under this section in part through emissions offsets, beginning in fiscal year 2015.

(B) CONTENTS.—The proposal developed under subparagraph (A) shall ensure that emissions offsets are—

- (i) real, surplus, verifiable, permanent, and enforceable; and
- (ii) additional for both regulatory and financial purposes (such that the generator of the offset is not receiving credit or compensation for the offset in another regulatory or market context).

(C) RULEMAKING.—If by 2012 the Congress has not enacted a statute for the express purpose of codifying the proposal developed under subparagraph (A) or an alternative to such proposal, the Administrator shall implement the proposal through rulemaking.

(f) MANAGEMENT STRATEGIES FOR LARGE TRACTS OF PUBLIC LANDS.—The Forest Service, the Bureau of Land Management, the National Park Service, and the United States Fish and Wildlife Service shall—

(1) within 2 years after the date of the enactment of this Act, conduct studies of the opportunities for management strategies, and identify those management strategies with the greatest potential, to—

(A) enhance net biological sequestration of greenhouse gases on Federal lands they manage while avoiding harmful effects on other environmental values; and

(B) reduce negative impacts of global warming on biodiversity, water supplies, forest health, biological sequestration and storage, and related values;

(2) within 3 years after the date of the enactment of this Act, implement programs on selected land management units in different parts of the Nation to test the management strategies identified as having the greatest potential to achieve the benefits described in paragraph (1); and

(3) report to the Congress on the results of the studies and the management strategies identified.

(g) STUDY ON URBAN AND WILDLAND-URBAN FORESTRY PROGRAMS.—Within 2 years of the date of enactment of this Act, the Forest Service, in consultation with appropriate State and local agencies, shall conduct a study of the opportunities of urban and wildland-urban interface forestry programs to enhance net biological sequestration of greenhouse gases and achieve other benefits.

(h) REPORTING.—

(1) REPORTS BY AGENCIES.—Not later than December 31 each fiscal year, each agency shall submit to the Administrator and make publicly available on the agency's website a report on the agency's implementation of its plan required by subsection (d) for the preceding fiscal year, including the inventory of greenhouse gas emissions of the agency during such fiscal year.

(2) ANNUAL REPORT TO CONGRESS.—The Administrator shall review each report submitted under paragraph (1) for technical validity and compile such reports in an annual report on the Federal Government's progress toward carbon neutrality. The Administrator shall submit such annual report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate and make such annual report publicly available on the Environmental Protection Agency's website.

(3) ELECTRONIC SUBMISSION.—In complying with any requirement of this title for submission of inventories, plans, or reports, an agency shall use electronic reporting in lieu of paper copy reports.

SEC. 103. PILOT PROJECT FOR PURCHASE OF OFFSETS AND CERTIFICATES.

(a) GAO STUDY.—No later than April 1, 2008, the Comptroller General of the United States shall issue the report requested by the Congress on May 17, 2007, regarding markets for greenhouse gas emissions offsets.

(b) PILOT PROJECT.—Executive agencies and legislative branch offices may purchase qualified greenhouse gas offsets and qualified renewable energy certificates in any open market transaction that complies with all applicable procurement rules and regulations.

(c) QUALIFIED GREENHOUSE GAS OFFSETS.—For purposes of this section, the term “qualified greenhouse gas offset” means a real, additional, verifiable, enforceable, and permanent domestic—

(1) reduction of greenhouse gas emissions; or

(2) sequestration of greenhouse gases.

(d) QUALIFIED RENEWABLE ENERGY CERTIFICATES.—For purposes of this section, the term “qualified renewable energy certificate” means a certificate representing a specific amount of energy generated by a renewable energy project that is real, additional, and verifiable.

(e) GUIDANCE.—No later than September 30, 2008, the Administrator shall issue guidelines, for Executive agencies, establishing criteria for qualified greenhouse gas

offsets and qualified renewable energy certificates. Such guidelines shall take into account the findings and recommendations of the report issued under subsection (a) and shall—

(1) establish performance standards for greenhouse gas offset projects that benchmark reliably expected greenhouse gas reductions from identified categories of projects that reduce greenhouse gas emissions or sequester carbon in accordance with subsection (c); and

(2) establish criteria for qualified renewable energy certificates to ensure that energy generated is renewable and is in accordance with subsection (d).

(f) REPORT.—The Comptroller General of the United States shall evaluate the pilot program established by this section, including identifying environmental and other benefits of the program, as well as its financial costs and any disadvantages associated with the program. No later than April 1, 2011, the Comptroller General shall provide a report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate providing the details of the evaluation and any recommendations for improvement.

(g) ADDITIONAL DEFINITIONS.—In this section:

(1) Notwithstanding section 105(3) of this Act, the term “Executive agency” has the meaning given to such term in section 105 of title 5, United States Code.

(2) The term “renewable energy” has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)), except that energy generated from municipal solid waste shall not be renewable energy.

(h) AUTHORIZATION.—Of the amount of discretionary funds available to each Executive agency or legislative branch office for each of fiscal years 2009 and 2010, not more than 0.01 percent of such amount may be used for the purpose of carrying out this section. Such funding shall be in addition to any other funds available to the Executive agency or legislative branch office for such purpose.

(i) SUNSET CLAUSE.—This section ceases to be effective at the end of fiscal year 2010.

SEC. 104. SAVINGS CLAUSE.

Nothing in this Act or any amendment made by this Act shall be interpreted to preempt or limit the authority of a State to take any action to address global warming.

SEC. 105. DEFINITIONS.

In this title:

(1) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) The term “carbon dioxide equivalent” means, for each greenhouse gas, the quantity of the greenhouse gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide, as determined by the Administrator, taking into account the global warming potentials published by the Intergovernmental Panel on Climate Change.

(3) The term “agency” has the meaning given to that term in section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).

(4) The term “greenhouse gas” means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; or

(G) any other anthropogenically-emitted gas that the Administrator, after notice and comment, determines contributes to global warming to a non-negligible degree.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to implement this title.

TITLE II—FEDERAL GOVERNMENT ENERGY EFFICIENCY

SEC. 201. FEDERAL VEHICLE FLEETS.

Section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) is amended—

- (1) by redesignating subsection (f) as subsection (g); and
- (2) by inserting after subsection (e) the following new subsection:

“(f) VEHICLE EMISSION REQUIREMENTS.—

“(1) PROHIBITION.—No Federal agency shall acquire a light duty motor vehicle or medium duty passenger vehicle that is not a low greenhouse gas emitting vehicle.

“(2) GUIDANCE.—Each year, the Administrator of the Environmental Protection Agency shall issue guidance identifying the makes and model numbers of vehicles that are low greenhouse gas emitting vehicles. In identifying such vehicles, the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable against motor vehicle manufacturers for vehicles sold anywhere in the United States. The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for the manufacturer’s fleet average grams per mile of carbon dioxide-equivalent emissions for that class of vehicle, taking into account any emissions allowances and adjustment factors such standards provide.

“(3) DEFINITION.—For purposes of this subsection, the term ‘medium duty passenger vehicle’ has the meaning given that term section 523.2 of title 49 of the Code of Federal Regulations.”.

SEC. 202. AGENCY ANALYSES FOR MOBILITY ACQUISITIONS.

(a) COST ESTIMATE REQUIREMENT.—Each Federal agency that owns, operates, maintains, or otherwise funds infrastructure, assets, or personnel to provide delivery of fuel to its operations shall apply activity based cost accounting principles to estimate the fully burdened cost of fuel.

(b) USE OF COST ESTIMATE.—Each agency shall use the fully burdened cost of fuel, as estimated under subsection (a), in conducting analyses and making decisions regarding its activities that create a demand for energy. Such analyses and decisions shall include—

(1) the use of models, simulations, wargames, and other analytical tools to determine the types of energy consuming equipment that an agency needs to conduct its missions;

(2) life-cycle cost benefit analyses and other trade-off analyses for determining the cost effectiveness of measures that improve the energy efficiency of an agency’s equipment and systems;

(3) analyses and decisions conducted or made by others for the agency; and

(4) procurement and acquisition source selection criteria, requests for proposals, and best value determinations.

(c) REVISION OF ANALYTICAL TOOLS.—If a Federal agency employs models, simulations, wargames, or other analytical tools that require substantial upgrades to enable compliance with this section, the agency shall complete such necessary upgrades not later than 2 years after the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term “fully burdened cost of fuel” means the commodity price for the fuel plus the total cost of all personnel and assets required to move and, where applicable, protect, the fuel from the point at which the fuel is received from the commercial supplier to the point of use.

SEC. 203. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) AMENDMENTS.—Section 553 of the National Energy Conservation Policy Act (42 U.S.C. 8259b) is amended—

(1) in subsection (b)(1), by inserting “in a product category covered by the Energy Star program or the Federal Energy Management Program for designated products” after “energy consuming product”;

(2) in subsection (b)(2)—

(A) by striking “in writing that” and all that follows through “(A) an Energy Star” and inserting “in writing that an Energy Star”; and

(B) by striking “account; or” and all that follows through “requirements of the agency” and inserting “account”; and

(3) in subsection (c)—

(A) by inserting “list in their catalogues, represent as available, and” after “Logistics Agency shall”;

(B) by striking “where the agency” and inserting “where the head of the agency”; and

(C) by striking “writing that no Energy Star product” and all that follows through “requirements, or” and inserting “writing”.

(b) CATALOGUE LISTING DEADLINE.—Not later than 6 months after the date of enactment of this Act, the General Services Administration and the Defense Logistics Agency shall ensure that the prohibition in the amendment made under subsection (a)(2)(A) has been fully complied with.

SEC. 204. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.

(a) **STANDARDS.**—Section 305(a)(3) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)) is amended by adding at the end the following new subparagraph:

“(D) Not later than 1 year after the date of enactment of the Carbon-Neutral Government Act of 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:

“(i) For new Federal buildings and Federal buildings undergoing major renovations:

“(I) The buildings shall be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency), by the percentage specified in the following table:

Fiscal Year	Percentage Reduction
2010	60
2015	70
2020	80
2025	90
2030	100.

“(II) Sustainable design principles shall be applied to the siting, design, and construction of such buildings. For building types for which the United States Green Building Council Leadership in Energy and Environmental Design (LEED) certification for New Construction and Major Renovation is applicable, such buildings shall be designed to meet, at a minimum, the LEED silver level standard (or any successor standard thereto), or if any additional capital cost is projected to be recoverable through energy and other operational cost savings within 10 years, the LEED gold level standard (or any successor standard thereto).

“(ii) In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.”.

(b) **DEFINITIONS.**—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) in paragraph (6), by striking “which is not legally subject to State or local building codes or similar requirements.” and inserting “. Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.”; and

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

“(17) The term ‘major renovation’ means the renovation of a major component or substantial structural part of a building that materially increases the value of the building, substantially prolongs the useful life of the building, or adapts the building to a new or different use.”.

SEC. 205. MANAGEMENT OF FEDERAL BUILDING EFFICIENCY.

(a) **BENCHMARKING AND RECOMMISSIONING.**—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsections:

“(f) **ENERGY PERFORMANCE BENCHMARKING.**—

“(1) **REQUIREMENTS.**—Each Federal agency shall, with respect to each of its Federal buildings with greater than 40,000 square feet of space or greater than \$75,000 per year in energy costs, annually benchmark the energy efficiency performance of the building and, where feasible, rate that performance compared to similar buildings.

“(2) **BENCHMARKING AND RATING TOOL.**—A Federal agency shall use the Energy Star Portfolio Manager Buildings Benchmark Tool in carrying out paragraph (1). If the building is a type of building for which that tool does not allow rating the building’s comparative performance, and the Federal Energy Management Program has identified an appropriate tool for rating the building’s comparative performance, the agency may use such tool to benchmark and rate the building’s performance.

“(3) **USE OF INFORMATION TO ENHANCE BUILDING MANAGEMENT.**—The Federal facilities manager for each building subject to the requirements in paragraph (1) shall use the benchmark performance, rating, and annual energy costs to identify and evaluate opportunities for improving the building’s energy efficiency performance and reducing costs.

“(4) PUBLIC DISCLOSURE.—Each Federal agency shall post the benchmarking information generated under this subsection, along with each building’s annual energy use per square foot and energy costs, on the agency’s website. The agency shall update such information each year, and shall include in such reporting previous years’ information to allow changes in building performance to be tracked over time.

“(g) RECOMMISSIONING AND DIAGNOSTIC ENERGY AUDIT.—

“(1) REQUIREMENT.—Each Federal agency shall each year recommission or retrocommission, as applicable, and conduct a diagnostic energy audit with respect to, approximately 20 percent of its Federal buildings with greater than 40,000 square feet of space or greater than \$75,000 per year in energy costs, so that all such buildings are recommissioned or retrocommissioned, as applicable, and audited at least once every 5 years.

“(2) USE OF INFORMATION TO ENHANCE BUILDING MANAGEMENT.—The Federal facilities manager for each building and the agency official responsible for facilities management shall use the information produced from the energy audits under paragraph (1) as a management tool for prioritizing capital expenditures for maintenance and building upgrades and allocating such expenditures within a facility and across all of the agency’s facilities, as applicable.

“(h) LARGE CAPITAL ENERGY INVESTMENTS.—Each Federal agency shall ensure that any large capital energy investment in an existing building that is not a major renovation but involves replacement of installed equipment, such as heating and cooling systems, or involves renovation, rehabilitation, expansion, or remodeling of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective. Not later than 6 months after the date of enactment of the Carbon-Neutral Government Act of 2007, each Federal agency shall develop a process for reviewing each such large capital energy investment decision to ensure that the requirement of this subsection is met, and shall report to the Office of Management and Budget on the process established. This process shall incorporate the information produced under subsections (f) and (g). Not later than one year after the date of enactment of the Carbon-Neutral Government Act of 2007, the Office of Management and Budget shall evaluate and report to Congress on each agency’s compliance with this subsection.”.

(b) METERING.—Section 543(e)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(e)(1)) is amended by inserting “By October 1, 2016, each agency shall also provide for equivalent metering of natural gas, steam, chilled water, and water, in accordance with guidelines established by the Secretary under paragraph (2).” after “buildings of the agency.”.

SEC. 206. LEASING.

(a) IN GENERAL.—Except as provided in subsection (b), effective 3 years after the date of enactment of this Act, no Federal agency shall enter into a new contract to lease space in a building that has not earned the Energy Star label in the most recent year.

(b) EXCEPTION.—If—

(1) no space is available in such a building that meets an agency’s functional requirements, including locational needs; or

(2) the agency is proposing to remain in a building that the agency has occupied previously,

the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy, or in the case of a contract described in paragraph (2) not later than 6 months after signing the contract, the space will be renovated for all energy efficiency improvements that would be cost effective over a 5-year period or the life of the lease, whichever is greater, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

SEC. 207. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

No Federal agency shall enter into a contract for procurement of an alternative or synthetic fuel, including a fuel produced from non-conventional petroleum sources, for any mobility-related use, other than for research or testing, unless the contract specifies that the lifecycle greenhouse gas emissions associated with the production and combustion of the fuel supplied under the contract must, on an ongoing basis, be less than or equal to such emissions from the equivalent conventional fuel produced from conventional petroleum sources.

SEC. 208. CONTRACTS FOR RENEWABLE ENERGY FOR EXECUTIVE AGENCIES.

Section 501(b)(1) of title 40, United States Code, is amended—

(1) in subparagraph (B), by striking “A contract” and inserting “Except as provided in subparagraph (C), a contract”; and

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

“(C) RENEWABLE ENERGY CONTRACTS.—A contract for renewable energy may be made for a period of not more than 20 years. For the purposes of this subparagraph, the term ‘renewable energy’ has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)), except that energy generated from municipal solid waste shall not be considered renewable energy.”.

SEC. 209. GOVERNMENT EFFICIENCY STATUS REPORTS.

(a) IN GENERAL.—Each Federal agency subject to any of the requirements of this Act and the amendments made by this Act shall compile and submit to the Director of the Office of Management and Budget an annual Government efficiency status report on—

(1) compliance by the agency with each of the requirements of this Act and the amendments made by this Act;

(2) the status of the implementation by the agency of initiatives to improve energy efficiency, reduce energy costs, and reduce emissions of greenhouse gases; and

(3) savings to American taxpayers resulting from mandated improvements under this Act and the amendments made by this Act

(b) SUBMISSION.—Such report shall be submitted—

(1) to the Director at such time as the Director requires;

(2) in electronic, not paper, format; and

(3) consistent with related reporting requirements.

SEC. 210. OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.

(a) REPORTS.—Not later than April 1 of each year, the Director of the Office of Management and Budget shall submit an Annual Government Efficiency report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, which shall contain—

(1) a summary of the information reported by agencies under section 209;

(2) an evaluation of the Government’s overall progress toward achieving the goals of this Act and the amendments made by this Act; and

(3) recommendations for additional actions necessary to meet the goals of this Act and the amendments made by this Act.

(b) SCORECARDS.—The Office of Management and Budget shall include in any annual energy scorecard it is otherwise required to submit a description of each agency’s compliance with the requirements of this Act and the amendments made by this Act.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to implement this title.

SEC. 212. JUDICIAL REVIEW.

(a) FINAL AGENCY ACTION.—Any nondiscretionary act or duty under this Act or any amendment made by this Act is a final agency action for the purposes of judicial review under chapter 7 of title 5, United States Code.

(b) VENUE FOR CERTAIN ACTIONS.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over any petition for review of action of the Administrator in promulgating any rule under title I of this Act.

(c) LIMITATIONS.—No action under chapter 7 of title 5, United States Code, may be commenced prior to 60 days after the date on which the plaintiff has given notice to the Federal agency concerned of the alleged violation of this Act or any amendment made by this Act.

(d) COMMON CLAIMS.—When civil actions arising under this Act or any amendment made by this Act are pending in the same court and involve one or more common questions of fact or common claims regarding the same alleged Federal agency failure or failures to act, the court may consolidate such claims into a single action for judicial review. When civil actions arising under this Act or any amendment made by this Act are pending in different districts and involve one or more common questions of fact or common claims regarding the same alleged Federal agency failure or failures to act, such actions may be consolidated pursuant to section 1407 of title 28, United States Code.

(e) AGGRIEVED PERSONS.—A person shall be considered aggrieved within the meaning of this Act or any amendment made by this Act for purposes of obtaining judicial review under chapter 7 of title 5, United States Code, if the person alleges—

(1) harm attributable to a Federal agency’s failure to reduce its greenhouse gas emissions in accordance with the requirements under this Act or any

amendment made by this Act, or take other actions required under this Act or any amendment made by this Act; or

(2) a Federal agency's failure to collect and provide information to the public as required by this Act or any amendment made by this Act.

For purposes of this section, the term "harm" includes any effect of global warming, currently occurring or at risk of occurring, and the incremental exacerbation of any such effect or risk that is associated with relatively small increments of greenhouse gas emissions, even if the effect or risk is widely shared. An effect or risk associated with global warming is "attributable" to a Federal agency's failure to act as described in paragraph (1) if the failure to act results in larger emissions of greenhouse gases than would have been emitted had the Federal agency followed the requirements of this Act or any amendment made by this Act, as any such incremental additional emissions will exacerbate the pace, extent, and risks of global warming.

(f) REMEDY.—

(1) IN GENERAL.—In addition to the remedies available under chapter 7 of title 5, United States Code, a court may provide the remedies specified in this subsection.

(2) PAYMENT.—In any civil action alleging a violation of this Act, if the court finds that an agency has significantly violated this Act in its failure to perform any nondiscretionary act or duty under this Act or any amendment made by this Act, the court may award a payment, payable by the United States Treasury, to be used for a beneficial mitigation project recommended by the plaintiff or to compensate the plaintiff for any impact from global warming suffered by the plaintiff. The total payment for all claims by all plaintiffs in any such action shall not exceed the amount provided in section 1332(b) of title 28, United States Code. A court may deny a second payment under this section if the court determines that the plaintiff has filed multiple separate actions that could reasonably have been combined into a single action. No payment may be awarded under this paragraph for violations of an agency's obligation to collect or report information to the public. No court may award any payment under this paragraph in any given year if the cumulative payments awarded by courts under this paragraph in such year are equal to or greater than \$1,500,000.

(3) COSTS.—A court may award costs of litigation to any substantially prevailing plaintiff or to any other plaintiff whenever the court determines such an award is appropriate. Such an award is appropriate when such litigation contributes to the Federal agency's compliance with this Act or any amendment made by this Act. Costs of litigation include reasonable attorney fees and expert fees.

(4) EXCLUSIVE REMEDY.—Notwithstanding any other provision of Federal law—

(A) no plaintiff who is awarded a payment under this subsection for a failure to perform a mandatory duty under this Act or any amendment made by this Act may be awarded a payment for such failure under any other Federal law; and

(B) no plaintiff may be awarded a payment under this subsection for a failure to perform a mandatory duty under this Act or any amendment made by this Act if the plaintiff has been awarded a payment for such failure under any other Federal law.

(g) NO STATE COURT ACTION.—No person may bring any action in State court alleging a violation of this Act or any amendment made by this Act.

(h) DEFINITION.—In this section, the term "person" means a United States person. In the case of an individual, such term means a citizen or national of the United States.

PURPOSE AND SUMMARY

H.R. 2635, the Carbon-Neutral Government Act, was introduced by Rep. Waxman on June 7, 2007. H.R. 2635 promotes federal leadership on the actions necessary to avoid a dangerous level of global warming by making federal government operations carbon-neutral by 2050.

The bill requires federal agencies to inventory their greenhouse gas emissions and reduce net emissions to zero by 2050; directs EPA to set annual government-wide and agency-specific emissions targets to achieve these reductions; requires agencies to develop plans and publicly report progress in meeting the targets; requires

agencies to purchase low greenhouse gas emitting vehicles; requires agencies to use the real cost of fuel in acquisition and procurement decisions; strengthens requirements for agencies to procure energy efficient products; requires new federal buildings to be designed to reduce fossil-fuel generated power consumption and meet green buildings standards; requires federal buildings managers to employ management strategies for enhancing energy efficiency; and clarifies citizens' ability to enforce these requirements in federal court.

BACKGROUND AND NEED FOR LEGISLATION

A consensus has emerged over the last several decades that the Earth's climate is changing, the global mean temperature is increasing, dramatic environmental impacts will occur should the temperature of the planet continue to rise, and anthropogenic emissions are the primary cause and driver of global warming. Studies show that a 2 degree Celsius increase in global temperatures could result in the extinction of nearly 30% of all living species, the bleaching of much of the world's coral, increased risk of wider spread of certain diseases, increased damage from floods and storms, and increased drought in already dry regions. The Intergovernmental Panel on Climate Change (IPCC) Working Group III (WGIII) findings suggest that in order to prevent global temperatures from exceeding 2 degrees Celsius above pre-industrial levels it will be necessary to reduce global emissions 50%-85% below 2000 levels. As the world's largest emitter of greenhouse gases according to the IPCC, the United States will need to reduce overall emissions on the order of 80% below 1990 levels to reach global reductions of this magnitude.

Reducing greenhouse gas emissions from United States government operations is an important piece of the broader effort to avoid dangerous global warming. The federal government is the single largest energy consumer in the United States, consuming over 1.1 quadrillion BTU of energy in FY 2005 at a cost of \$14.5 billion. The preliminary estimate for FY 2006 is that the government consumed roughly 1.1 quadrillion BTU of energy at a cost of \$17.7 billion. The carbon emissions associated with the federal government's operations are correspondingly large, estimated at more than 99 million metric tons of CO₂ equivalent (MMTCE) in 2005. Reducing and, by 2050, eliminating these emissions will help slow global warming.

Setting the federal government on the path to carbon neutrality will have other, perhaps even more significant, benefits. Importantly, it will send a strong message to the nation and the international community that the U.S. government is re-engaging and will once again be a leader in fighting global warming. Since the United States rejected the Kyoto Protocol in 2001, we have lost credibility with other nations, including key allies, and have lost influence in the international negotiations to address this issue. Adopting strong standards for the federal government provides proof to the world that the U.S. is committed to avoiding dangerous climate change.

In the absence of federal leadership, states, cities, and small towns across America, as well as multi-national corporations and small businesses, are taking action to address global warming. These efforts are very important, and could be enhanced with fed-

eral government support and additional federal action. As Congress moves to adopt mandatory economy-wide requirements for greenhouse gas reductions, committing the government to eliminate its own emissions is a tangible demonstration that steep reductions can and must be achieved.

Achieving a carbon-neutral federal government will also help America transition to the clean, low-carbon economy of the future, driving new technologies, businesses, and jobs. The federal government owns or controls vast quantities of energy-consuming equipment and buildings, and it makes hundreds of billions of dollars of purchases every year. Entire industries have developed solely to supply the government with goods and services. Because government needs drive technology advances and create markets for new goods, federal action can help develop a more vibrant and cleaner economy.

Currently, there is no requirement for the federal government to track or reduce its greenhouse gas emissions by any specified quantity. Executive Order 13123, issued on June 8, 1999, required most federal facilities (but not other federal sources) to reduce their greenhouse gas emissions 30% below 1990 levels by 2010. While agencies were making progress toward meeting this limited goal, it was revoked on January 24, 2007, by Executive Order 13423.

There is also no existing requirement for the federal government to limit or reduce its overall energy use. The Energy Policy Act of 2005 and E.O. 13423 have some requirements related to federal government energy use in specific applications. However, many of the Energy Policy Act of 2005 requirements have significant exemptions or are nonbinding, and the executive order requirements are not legally enforceable.

For example, E.O. 13423 directs agencies to reduce their vehicle fleets' consumption of petroleum products by two percentage points per year, through 2015, relative to baseline consumption in FY 2005, and increase non-petroleum-based fuel consumption by 10% annually. With respect to buildings, EPlaw 2005 section 102 requires that agencies reduce energy use per square foot in most federal facilities by two percentage points per year, starting in FY 2006, compared to the energy use in FY 2003, for a total of 20% less than the FY 2003 baseline use in 2020. E.O. 13423 increases this requirement to 3 percentage points per year, compared to the FY 2003 baseline. EPlaw section 203 sets unenforceable goals for the federal government to aim to use renewable energy to meet at least 3% of its energy use in FY 2007-FY 2009, at least 5% in FY 2010-2012, and at least 7.5% from FY 2013 on. E.O. 13423 directs agencies to meet at least half of the required quantities using new renewable generation.

In the absence of requirements to reduce total government energy use, progress has been uneven and in recent years we have lost ground. While federal government energy consumption fell each year from FY 1997 through FY 2000, energy consumption subsequently rose every year from FY 2001 through FY2004, falling again only slightly in FY 2005. In FY 2005, federal energy use was almost ten percentage points higher than in FY 2000, relative to a FY 1985 baseline.

Nearly two thirds of all energy consumed by the federal government in 2005 was for fuel used for mobility. This fuel used by vehi-

cles, mobile off-road equipment, weapons platforms, and mobile generation equipment emitted over 54 MMTCE. Approximately one third of the energy consumed by the federal government in 2005 was associated with the operation of federal facilities. The federal government owns or leases over 500,000 facilities, or more than 3.7 billion square feet. Federal facilities used more than 397 trillion BTU of energy and accounted for nearly 45% of all the carbon emitted by the federal government in 2005. These emissions are largely attributable to fossil-based electricity generation.

In addition to the requirements for government-wide greenhouse gas emissions reductions, the Carbon Neutral Government Act includes specific complementary policies to reduce fuel consumption and increase energy efficiency in federal operations. These policies address federal vehicle fleets, other equipment that uses petroleum derived fuel, such as ships, tanks and planes, federal buildings, and procurement and acquisitions.

The Carbon Neutral Government Act is critical to reducing the federal government's contribution to global warming, reducing the government's dependence on energy derived from fossil fuels, enhancing energy security, and saving taxpayer dollars spent on energy bills.

LEGISLATIVE HISTORY

H.R. 2635, legislation to reduce the federal government's contribution to global warming, was introduced on June 7, 2007, and referred to the Committee on Oversight and Government Reform.

The Subcommittee on Government Management, Organization, and Procurement held a hearing on the Carbon-Neutral Government Act on May 17, 2007. The witnesses were Emily Figdor, Director, Federal Global Warming Program, U.S. Public Interest Research Group; Jeffrey Harris, Vice President for Programs, Alliance to Save Energy; and Marshall E. Purnell, FAIA, First Vice President and President-Elect, the American Institute of Architects.

The Committee also solicited the views of the Administration on the proposed legislation, as well as H.R. 823, legislation authorizing government purchase of offsets and renewable energy certificates. While the Administration indicated that it would not be able to provide official Administration views on the bill, staff from GSA, EPA, and DOE met with Committee staff to provide informal suggestions and technical advice. GSA indicated that it is capable of meeting the requirements of the bill. EPA indicated that, with sufficient resources, the requirements are achievable. DOE raised concerns about the scope of the citizen suit provision, which has been narrowed in response, and potential costs to agencies. Each of the agencies also provided technical comments that are addressed in the bill as reported.

The Committee held a markup to consider H.R. 2635 on June 12, 2007, and ordered the bill to be reported, as amended, by voice vote.

SECTION-BY-SECTION

Sec. 1. Short title

The short title of the bill is the Carbon-Neutral Government Act of 2007.

Sec. 2. Findings

This section makes a series of findings regarding the scientific consensus on the threat posed by global warming, the impacts that have already been observed, the harm global warming poses to individuals, the need for widespread and cumulatively substantial greenhouse gas emissions reductions to protect against dangerous climate change, the role of the U.S. government in addressing this problem, and the opportunities to reduce emissions while saving taxpayers' money and enhancing national security through improved management of U.S. government operations.

TITLE I—FEDERAL GOVERNMENT INVENTORY AND MANAGEMENT OF GREENHOUSE GAS EMISSIONS

Sec. 101. Inventory of federal government greenhouse gas emissions

Section 101(a) requires each federal agency to inventory and report its greenhouse gas emissions annually, in accordance with guidance issued by EPA. Emissions include indirect emissions from generation of electricity used by the agency and commercial air travel by agency personnel, as well as emissions associated with government work that has been outsourced to private contractors.

Section 101(b) directs EPA to, within 3 months of enactment, issue guidance for agencies for conducting inventories. The guidance must set procedures at least as rigorous as the inventory procedures established under EPA's Climate Leaders program, a voluntary program for industry greenhouse gas reductions.

Under section 101(c), agencies' initial inventories are due one year after enactment, and must be certified by EPA as technically valid. If EPA declines to certify an agency inventory, the agency must revise the inventory within 6 months. Inventories must be publicly reported on agencies' Web sites.

Under section 101(d), emissions from certain federal lands and biological sinks on such lands must be included in inventories within two years of enactment, but are not included in the emissions targets and reductions under section 102.

Sec. 102. Management of federal greenhouse gas emissions

This section establishes binding annual greenhouse gas emissions reductions targets for the federal government, and it requires agencies to develop and implement plans to meet those targets.

Subsections 102(a), (b), and (c) require EPA, within 18 months of enactment, to set annual greenhouse gas emissions reductions targets for all federal agencies cumulatively and individually, based on the agencies' proportionate shares. The targets freeze emissions in FY 2011 at FY 2010 levels and reduce gradually to achieve zero net emissions in FY 2050. The targets must decrease emissions each year by, at minimum, an amount equal to 2% of FY 2010 emissions. The targets for some years will necessarily decrease emissions by an amount greater than 2% of FY 2010 emissions to achieve zero net emissions in FY 2050.

Under section 102(d), agencies' plans for meeting the targets are due within two years of enactment, and the plans must be certified by EPA as technically sound. The plans must identify the specific actions to be taken by the agency and estimate the quantity of

greenhouse gas emissions reductions to be achieved through each action.

Section 102(e) addresses emissions reductions. It provides that if an agency fails to meet its annual target, the agency must revise its plan to provide sufficient reductions to achieve the targets. This section also addresses the use of emissions offsets to help achieve the reduction targets. It provides that if no national mandatory economy-wide cap-and-trade program for greenhouse gases has been enacted by 2010, EPA must provide Congress a proposal to allow agencies to use some quantity of emissions offsets to assist in meeting their targets. EPA must ensure that emissions offsets are real, surplus, verifiable, permanent, enforceable, and additional for both regulatory and financial purposes. If, by 2012, Congress has not acted on EPA's proposal or an alternative, EPA must implement its proposal through rulemaking.

Section 102(f) provides that agencies with large tracts of public lands must study and report on management strategies to enhance biological carbon sequestration and minimize harmful effects of global warming on federal lands.

Section 102(g) requires the Forest Service to conduct a study on the opportunities to enhance net biological sequestration of greenhouse gases and achieve other benefits through urban forestry programs.

Section 102(h) requires agencies to annually report to EPA, Congress, and the public (through their websites) on the implementation of their plans and their emissions. All reporting under this title must be done electronically, rather than in paper copies.

Sec. 103. Pilot project for purchase of offsets and certificates

Section 103(a) requires GAO to issue a report on markets for greenhouse gas emissions offsets no later than April 1, 2008.

Subsections 103(a), (b), (c), (d), and (i) establish a two-year pilot project authorizing agencies and legislative branch offices to purchase greenhouse gas offsets and renewable energy certificates that meet specified criteria, as detailed by EPA in guidance.

Section 103(e) requires GAO to evaluate the results of the pilot program and report to Congress by April 1, 2011.

Section 103(h) provides that agencies and legislative branch offices may not spend more than 0.01 percent of available discretionary funds on such purchases.

Sec. 104. Savings clause

This section ensures that nothing in this bill preempts or limits State actions to address climate change.

Sec. 105. Definitions

This section defines key terms in the bill.

Sec. 106. Authorization of appropriations

This section authorizes the appropriation of such sums as are necessary to implement this title.

TITLE II—FEDERAL GOVERNMENT ENERGY EFFICIENCY

Sec. 201. Federal vehicle fleets

This section amends section 303 of the Energy Policy Act of 1992 to require agencies to purchase vehicles for federal fleets that have lower greenhouse gas emissions.

Amended section 303(f)(1) bars agencies from purchasing vehicles for federal fleets that are not “low greenhouse gas emitting vehicles.”

Amended section 303(f)(2) provides that each year, EPA must issue guidance identifying the makes and model numbers of low greenhouse gas emitting vehicles. In identifying such vehicles, the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable against motor vehicle manufacturers for vehicles sold anywhere in the United States. The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for a manufacturer’s overall fleet average emissions for that class of vehicle.

Currently, the only applicable greenhouse gas emissions standards are those adopted by California and other states. Those standards will be enforceable if and when EPA grants the waiver requested by the state of California under the Clean Air Act.

Sec. 202. Agency analyses for mobility acquisitions

This section corrects an existing disincentive for the Department of Defense and other agencies to purchase more efficient equipment related to mobility (such as planes and tanks) that would provide large cost savings. The disincentive stems from the large discrepancy that exists between the cost of fuel at the point-of-purchase and the cost of fuel at the point-of-use when the fuel must be delivered and protected, such as fuel used on a battlefield or for in-air refueling of aircraft. The Defense Science Board and others have estimated that the real cost of fuel in such applications can range from \$15 per gallon up to hundreds of dollars per gallon. Current analytical models for procurement and acquisition decisions, however, assume that the cost of fuel is the purchase price, not the cost at the point of use. Thus, such models dramatically underestimate the benefits of more fuel-efficient equipment, which would reduce the amount of fuel actually used by the equipment. Such benefits could include direct cost savings, the ability to reallocate resources currently used for protecting deliveries, and even reduced casualties.

Section 202(a) requires agencies that expend resources to deliver fuel to their operations to estimate the “fully burdened cost of fuel,” which is the full cost of moving and, where applicable, protecting, the fuel.

Section 202(b) requires agencies to use these estimates in all analyses and decisions about activities that create a demand for fuel.

Section 202(c) mandates that any analytical tools that require substantial upgrades to comply with this requirement be upgraded within two years of enactment.

Sec. 203. Federal procurement of energy efficient products

This section amends section 553 of the National Energy Conservation Policy Act to strengthen existing requirements that agencies purchase, and GSA and DLA supply, energy efficient products in the product categories where such products are identified. Section 104 of EPAct 2005 currently requires agencies only to purchase, and GSA and DLA only to supply, Energy Star or FEMP designated products in product categories where they are available, where such products are cost effective, reasonably available, and meet the functional requirements of the agency. However, GSA catalogues currently list numerous inefficient products in product categories covered by the Energy Star program, and GSA requires no documentation or certification from agencies that the exemptions apply prior to supplying inefficient products to agencies.

Section 203(a)(2) removes the existing exemption allowing agencies to claim that efficient products do not meet their functional requirements. It also explicitly bars GSA and DLA from listing products in its catalogues that fail to meet these criteria.

Section 203(b) requires GSA and DLA to revise their catalogues within six months of enactment to comply with the bar on listing inefficient products.

Sec. 204. Federal building energy efficiency performance standards

This section amends section 305(a)(3) of the Energy Conservation and Production Act to significantly strengthen the existing performance standards for new federal buildings and federal buildings undergoing major renovations. As amended by section 109 of the Energy Policy Act of 2005, section 305(a)(3) currently requires new federal buildings to be designed to consume 30% less energy than required by code, if cost effective.

Under section 204(a), within one year of enactment, DOE must issue rules requiring all federal buildings that are new, undergoing major renovations, and/or are built for the federal government to lease, to meet new performance standards for energy consumption. Such buildings must also be certified as LEED silver, or where cost effective, LEED gold, under the U.S. Green Buildings Council standards. The new performance standards for energy consumption are based on a proposal from the American Institute of Architects. They require a building designed in FY 2010 to consume 60% less fossil fuel-generated energy than a comparable building consumed in FY 2003. This requirement is strengthened every five years, such that a building designed in FY 2030 must consume zero fossil fuel-generated energy.

Sec. 205. Management of federal building energy efficiency

This section amends section 543 of the National Energy Conservation Policy Act to require agencies to apply specified management tools to identify and prioritize opportunities to improve the energy efficiency of large federal buildings (greater than 40,000 square feet or with greater than \$75,000 annual energy costs).

New section 543(f) requires agencies to benchmark annually the energy efficiency performance of these buildings and rate that performance against comparable buildings using an Energy Star benchmark tool. This will allow agencies to use a simple online tool to determine the baseline energy performance for each large build-

ing and compare each building's performance to that of buildings of a similar size and function. Agencies must publicly disclose the benchmarking results as well as their energy costs for each large building on the agency's Web site.

New section 543(g) requires agencies to recommission or retrocommission and perform an energy audit of approximately 20% of its large federal buildings each year, so as to cover each large federal building at least once every five years. "Commissioning" is a systematic method for investigating how an existing building's systems are operated and maintained, which is used to calibrate a building's energy systems for optimal performance. Buildings that have already undergone commissioning are "re-commissioned," while buildings that have never been commissioned are "retrocommissioned." Diagnostic energy audits identify available cost effective energy savings.

New section 543(h) requires agencies to develop internal processes to ensure that all large capital energy investments use the most energy efficient designs, systems, equipment and controls that are life-cycle cost effective. Agencies must report to OMB on their process for reviewing such investments.

Section 205(b) amends section 543(e)(1), which requires metering of federal buildings, to clarify that the requirements include metering of natural gas, steam, chilled water, and water. This section provides agencies an additional four years to install such meters.

Sec. 206. Leasing

This section ensures that when agencies lease space in existing private sector buildings, they select space in more energy efficient buildings.

Section 206(a) requires an agency, when entering into a new contract to lease space in a building, to lease space in an Energy Star building. An existing building can earn the Energy Star by benchmarking its energy performance to show that its energy efficiency performance is in the top 25% of that of comparable buildings.

Section 206(b) provides that an agency may be exempt from this requirement if no space is available in an Energy Star building that meets the agency's functional needs, including location, or if the agency is renewing a lease for currently occupied space. For one of these exemptions to apply, the lease must provide that the space will be renovated for all energy efficiency improvements that would be cost effective over the life of the lease (or five years, if the lease is shorter than five years).

Sec. 207. Procurement and acquisition of alternative fuels

This section bars agencies from entering into a contract for an alternative fuel for any use related to mobility (other than research or testing), unless the contract specifies that the fuel's lifecycle greenhouse gas emissions from production and combustion will be no greater than such emissions from the equivalent conventional fuel.

Sec. 208. Contracts for renewable energy for executive agencies

This section allows GSA to enter into longer term contracts for renewable energy. This will help agencies acquire renewable en-

ergy from new renewable energy sources by making it easier for such projects to obtain financing.

This section amends USC Title 40, section 501(b)(1), which limits GSA from entering into contracts for public utilities longer than 10 years. New section 501(b)(1)(C) allows GSA to enter into up to 20-year contracts for renewable energy. It defines “renewable energy” as that term is defined in section 203(b) of EPAct 2005, except that this definition excludes energy generated from municipal solid waste.

Sec. 209. Government efficiency status reports

This section requires agencies to report annually to OMB on: (1) the status of their compliance with the requirements of the Act; (2) their implementation of initiatives to improve energy efficiency, reduce energy costs and reduce emissions of greenhouse gases; and (3) the resulting savings to taxpayers.

Sec. 210. OMB government efficiency reports and scorecards

This section requires OMB to annually report to Congress on the status of agencies’ compliance with the requirements of this Act and make recommendations for any additional actions necessary to meet those requirements. OMB must also include agencies’ compliance with these requirements in OMB’s annual energy scorecard.

Sec. 211. Authorization of appropriations

This section authorizes the appropriation of such sums as are necessary to implement this title.

Sec. 212. Judicial review

This section strengthens citizens’ ability to enforce the requirements of this Act in court if agencies fail to comply with its mandates.

Section 212(a) provides that agency noncompliance with the requirements of this Act is judicially reviewable under the Administrative Procedure Act.

Section 212(b) grants the U.S. Court of Appeals for the D.C. Circuit exclusive jurisdiction over petitions for review of EPA rulemakings under title I of the Act, consistent with the approach to jurisdiction over rulemakings with national effect under the Clean Air Act.

Section 212(c) requires a plaintiff to provide an agency with 60 days notice of intent to sue prior to bringing an action under these provisions.

Section 212(d) provides courts authority to consolidate actions arising under this Act that involve common questions of fact or common claims regarding the same alleged agency failure to act.

Section 212(e) clarifies Congress’ intent that any person should have standing to bring suit under these provisions if the person alleges harm attributable to an agency’s failure to comply with the Act’s requirements or if the person alleges that an agency failed to collect and provide information to the public as the Act requires. This section defines “harm” to include any effect of global warming, whether occurring or at risk of occurring in the future, and the incremental exacerbation of any such effect or risk that is associated with small increments of greenhouse gas emissions. It provides

that an individual is harmed even if the effect or risk is widely shared. It also provides that an effect or risk of global warming is “attributable” to a federal agency’s failure to comply with a requirement of this Act if the failure results in the agency emitting a larger quantity of greenhouse gases than it would have emitted had it complied with the requirement. This is because any incremental additional emissions will necessarily exacerbate the pace, extent, and risks of global warming to some degree.

Section 212(f)(1) provides that courts may prescribe certain additional remedies in specified cases under these provisions beyond those available under the Administrative Procedure Act.

Section 212(f)(2) provides that with respect to an agency’s significant violation of any substantive requirement of the Act (but not information collection and reporting requirements), a court may award a payment from the U.S. Treasury. This payment is to be used in a beneficial mitigation project selected by the plaintiff to reduce global warming, or to be used to compensate the plaintiff for any impact of global warming shown to be suffered by the plaintiff. The total payment for all claims by all plaintiffs in an action under this provision is limited to the amount provided in 28 USC 1332(b) (currently set at \$75,000). A court may deny a second payment to a given plaintiff under this section if the court determines that the plaintiff filed multiple separate actions that could reasonably have been combined into a single action. Also, a court may not award this payment in any given year if the cumulative payments already awarded by courts under this provision in that year total at least \$1,500,000.

Section 212(f)(3) authorizes a court to award litigation costs (including attorney fees and expert fees) when appropriate, including when the litigation contributes to the agency’s compliance with this Act.

Section 212(f)(4) is intended to prevent plaintiffs from “double-dipping” by obtaining payments under both this provision and any other federal law for the same alleged failure by a federal agency to perform a mandatory duty under this Act.

Section 212(g) bars an action in state court alleging a violation of this Act.

Section 212(h) provides that only U.S. entities and individuals may sue under these provisions.

EXPLANATION OF AMENDMENTS

The following amendments were adopted in Committee:

Mr. Waxman offered an amendment, passed by voice vote, modifying the provisions in the bill related to judicial review. The Waxman amendment removes the specific authorization for citizen suits, but retains the language providing for judicial review under the Administrative Procedure Act. It also defines for purposes of APA review who is “aggrieved” by a federal agency’s failure to comply with the requirements of this Act. With respect to the remedy provision allowing a court to award a monetary payment, the Waxman amendment provides that in any one year, courts may award no more than a total of \$1,500,000 in monetary payments. The Waxman amendment also provides that the right to bring suit to enforce this Act is limited to U.S. individuals and entities.

Mr. McHenry offered an amendment, passed by voice vote, to require agencies to report, as part of the annual government efficiency status reports required by the bill, on the savings to taxpayers resulting from the improvements mandated by the bill and the amendments made by the bill.

Mr. McHenry offered and then withdrew an amendment to title I of the legislation providing that no agency may be required to take or refrain from taking any action under title I if doing so would adversely impact the agency's primary mission.

COMMITTEE CONSIDERATION

On Tuesday, June 12, 2007, the Committee met in open session and favorably ordered H.R. 2635 to be reported to the House by a voice vote.

ROLLCALL VOTES

No rollcall votes were held.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to terms and conditions of employment or access to public services and accommodations. H.R. 2635 would reduce greenhouse gas emissions from executive branch agencies. The bill applies to the legislative branch in that it would establish a pilot program to allow executive agencies and legislative branch offices to purchase qualified greenhouse gas offsets. The bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of Rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report, including the need for federal agencies to reduce greenhouse gas emissions to help slow global warming.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report, including requiring federal agencies to reduce net greenhouse gas emissions to zero by 2050, establishing efficiency standards for federal buildings, establishing minimum emissions standards for federal fleet vehicles, and strengthening requirements for executive branch procurement of energy efficient products.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed

by H.R. 2635. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 2635 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 2635. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2635 from the Director of the Congressional Budget Office:Q06

JUNE 28, 2007

Hon. HENRY A. WAXMAN,
*Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2635, the Carbon-Neutral Government Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 2635—Carbon-Neutral Government Act of 2007

Summary: H.R. 2635 would establish targets for greenhouse gas reduction and standards for energy efficiency for the federal government. Starting in 2010, the bill would require federal agencies to reduce emissions of greenhouse gases in order to achieve net zero emissions by 2050. In addition, the legislation would:

- Establish a two-year pilot program for federal purchases of greenhouse gas offsets (as specified in the bill) and renewable energy certificates;
- Require agencies to purchase low greenhouse gas-emitting vehicles;
- Require energy-efficiency standards for new (and renovated) federal buildings;
- Permit individuals to sue the federal government for damages (of up to \$1.5 million per year) caused by global warming; and
- Authorize the Environmental Protection Agency (EPA) to establish a carbon cap-and-trade program for use by federal agencies.

CBO estimates that enacting this legislation would increase direct spending by \$20 million in 2008, by \$340 million over the 2008–2012 period, and by \$840 million over the 2008–2017 period, mostly for the cost of entering into contractual commitments to acquire renewable forms of energy and to achieve reductions in energy use. In addition, we estimate that implementing the bill would increase the federal government’s operating costs subject to appropriation by \$178 million in 2008 and \$1.3 billion over the 2008–2012 period, mostly to purchase low greenhouse gas-emitting vehicles and to participate in the pilot program for acquiring qualified greenhouse gas offsets.

H.R. 2635 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2635 is shown in the following table. The costs of this legislation fall within nearly all budget functions because the bill would affect all executive and legislative branch agencies.

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF H.R. 2635

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN DIRECT SPENDING ¹					
Estimated Budget Authority	40	60	80	100	100
Estimated Outlays	20	40	80	100	100
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	180	298	295	263	336
Estimated Outlays	178	296	295	263	336

¹ Enacting H.R. 2635 also would increase direct spending by an estimated \$100 million per year from 2013 through 2017. Changes in direct spending through 2017 are detailed in Table 2.

Basis of estimate: For this estimate, CBO assumes that H.R. 2635 will be enacted before the start of 2008, that the necessary funds will be provided for each year, and that spending will follow historical patterns for ongoing and similar initiatives. CBO estimates that enacting H.R. 2635 would increase direct spending by \$20 million in 2008 and \$840 million over the 2008–2017 period.

In addition, we estimate that implementing the bill would increase discretionary spending by \$178 million in 2008 and \$1.3 billion over the 2008–2012 period.

Background

H.R. 2635 would establish targets for reducing the federal government's emissions of greenhouse gases.

Greenhouse Gases. The federal government's emissions of greenhouse gases—primarily carbon dioxide, but also methane, nitrous oxide, and other chemicals—are the result of a variety of processes, including the combustion of fossil fuels, industrial activities, and natural processes. Most of the carbon dioxide emissions in the United States result from the combustion of fossil fuels. There is currently no requirement for the federal government to specifically track or reduce its greenhouse gas emissions and no reliable comprehensive data base of direct and indirect greenhouse gas emissions that result from the government's operations. For this estimate, CBO estimated the federal government's greenhouse gas emissions based on the carbon dioxide coefficients of the various fuels consumed. The government emits at least 100 million metric tons of carbon dioxide annually through the consumption of fossil fuels.

H.R. 2635 would require agencies to inventory and reduce all greenhouse gas emissions, including direct emissions (e.g., energy usage in buildings and vehicles) as well as indirect emissions (e.g., emissions from the production of energy, travel costs, and contractor-related activities). Limited information is available on the greenhouse gas emissions of the federal government. For this estimate, CBO assumes agencies would reduce current energy consumption and purchase qualified greenhouse gas offsets to achieve the required 2 percent annual reduction in carbon dioxide emissions starting in 2011.

Methods of Compliance. Under the bill, the federal government could lower its energy use or purchase qualified greenhouse gas offsets or renewable energy certificates or a combination of those approaches to reduce its greenhouse gas emissions.

Energy Conservation Investments. Methods of lowering the federal government's energy use could range from inexpensive education and outreach campaigns to encourage employees and agencies to curtail their energy use, to more costly investments in energy conservation improvements to buildings or in energy-efficient equipment and vehicles. Agencies typically make energy conservation investments using appropriated funds or by entering into energy savings performance contracts (ESPCs).

Greenhouse Gas Offsets. Under the bill, greenhouse gas offsets would provide a verifiable, enforceable, and permanent reduction of greenhouse gas emissions through a reduction in emissions or the sequestration (that is, the removal) of greenhouse gases (for example, by the permanent storage of carbon dioxide emissions). Such reductions in emissions or increases in the sequestration of greenhouse gas could be achieved by entities other than the federal government—for example, by modifications in energy use to reduce carbon emissions (such as switching from coal to natural gas) or changes in the management of forest lands to increase the sequestration of carbon. Those entities could then sell the reductions in

greenhouse gases that they have achieved to others, such as the federal government, that are required to reduce emissions.

The Federal Government's Energy Use and Carbon Dioxide Emissions. The federal government is the largest single consumer of energy in the United States. According to the Department of Energy (DOE), the federal government accounts for about 2 percent of the total energy consumed in the United States. When measured in terms of energy delivered (net of losses in the generation of electricity), the government used about 1.1 quadrillion British thermal units (Btu) or quads of energy at a cost of \$14.5 billion in 2005. Federal buildings accounted for 35 percent of the government's energy use, vehicles and equipment used about 60 percent, and the remainder was used in various industrial processes and support facilities. Based on the type of energy used, CBO and others have estimated that the federal government's activities—from heating and cooling office buildings to operating fighter jets—produce at least 100 million metric tons of carbon dioxide annually.

Reducing and Offsetting Carbon Dioxide Emissions. CBO expects that 20 percent of the reduction in greenhouse gas emissions required of the federal government under H.R. 2635 before 2017 would stem from reducing energy use. We expect that most emissions reduction under the bill in the initial years—80 percent—would be achieved by purchasing greenhouse gas offsets. That estimate reflects the fact that the energy conservation potential of existing federal buildings is limited—not all of the reduction in greenhouse gas emissions required under H.R. 2635 could be obtained by making federal buildings more energy efficient. In addition, most federal energy use is related to vehicle and equipment operation by the Department of Defense and other agencies for purposes that are not likely to be significantly reduced in the next few years. Thus, the purchase of greenhouse gas offsets is the compliance strategy likely to be most widely adopted by federal agencies for the first several years following enactment of the legislation.

Direct spending

CBO expects that two provisions of H.R. 2635 would affect direct spending; the estimated cost of those provisions are shown in Table 2. First, the bill would require federal agencies to reduce their greenhouse gas emissions by at least 2 percent annually to reach net zero emissions by 2050. It also would permit individuals to sue the government for its failure to reduce those emissions. CBO estimates that enacting the bill would increase direct spending by \$20 million in 2008, \$340 million over the 2008–2012 period, and \$840 million over the 2008–2017 period, for the cost of entering into long-term contracts to achieve reductions in energy use. Those contracts are known as energy savings performance contracts. ESPCs allow agencies to acquire energy-efficiency investments and agree to pay private contractors for the cost of those investments over several years using the avoided energy costs due to the investment.

TABLE 2.—ESTIMATED DIRECT SPENDING EFFECTS OF H.R. 2635

	By fiscal year, in millions of dollars—													2008– 2012	2008– 2017
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017					
CHANGES IN DIRECT SPENDING															
Estimated Budget Authority	40	60	80	100	100	100	100	100	100	100	100	380	880		
Estimated Outlays	20	40	80	100	100	100	100	100	100	100	100	340	840		

Energy Savings Performance Contracts. Section 102 would require federal agencies to reduce their greenhouse gas emissions by freezing emissions in 2010 and then working to steadily reduce net emissions by at least 2 percent a year to achieve net zero greenhouse gas emissions by 2050.

The obligation to make payments under ESPCs is incurred when the government signs a contract. Under current law, agencies can use such contracts to acquire new energy-efficient equipment and pay for it over a period of several years without an appropriation for the full amount of the purchase price. Thus, consistent with government accounting principles, CBO has determined that the budget should reflect that commitment as new obligations at the time that a contract is signed and that the authority to enter into those contracts without budget authority for the full amount of the purchase price constitutes direct spending.

CBO examined information on past energy conservation investments made by the federal government to estimate the cost of reducing energy use, and thereby reducing carbon dioxide emissions. Based on the cost of energy conservation investments made by federal agencies over the past decade, and the estimated energy savings achieved by those investments, CBO estimates that lowering greenhouse gas emissions through energy conservation investments in federal buildings using ESPCs would cost \$20 million in 2008, \$340 million over the 2008–2012 period, and \$840 million over the 2008–2017 period. We estimate that this level of energy conservation investment would fulfill about 20 percent of the greenhouse gas reduction goal under H.R. 2635 over the 2011–2017 period.

Judicial Review. Section 211 would permit individuals to sue the federal government in the United States Court of Appeals for the District of Columbia Circuit for failure to reduce its greenhouse gas emissions according to the schedule outlined in H.R. 2635. Under the bill, if plaintiffs prevailed in such lawsuits, payment would be made from the Treasury for mitigation projects as recommended by the plaintiff. Under H.R. 2635, such payments could not exceed a maximum of \$1.5 million annually. CBO expects that agencies would be able to comply with the goals of the legislation over the 2008–2017 period, and it is unlikely that such damages would be paid from the Treasury.

Spending subject to appropriation

CBO estimates that implementing H.R. 2635 would have discretionary costs of \$178 million in 2008 and \$1.3 billion over the 2008–2012 period, primarily for the purchase of low greenhouse gas-emitting vehicles and for participation in the pilot program for qualified greenhouse gas offsets (see Table 3).

Pilot Program for Purchase of Offsets and Certificates. Section 103 would authorize the appropriation of one one-hundredth of one

percent of the discretionary funds made available to the executive and legislative branches of the federal government in fiscal years 2009 and 2010 to establish a two-year pilot program to purchase greenhouse gas emission offsets and renewable energy certificates. Renewable energy certifications are the rights to the environmental benefits from generating electricity from renewable energy sources. Since discretionary funding is likely to total in the vicinity of \$1 trillion for each of the next few years, CBO estimates that this provision would cost about \$100 million in each of fiscal years 2009 and 2010. (The precise amount of this authorization would depend on the overall growth in discretionary appropriations over the next few years.) CBO expects that this pilot program would help prepare agencies to develop strategies to reduce greenhouse gas emissions starting in 2010.

TABLE 3.—ESTIMATED SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2635

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Pilot Program for Purchase of Offsets and Certificates:					
Estimated Authorization Level	0	100	100	0	0
Estimated Outlays	0	100	100	0	0
Greenhouse Gas Reductions:					
Estimated Authorization Level	0	0	0	60	120
Estimated Outlays	0	0	0	60	120
Federal Vehicle Fleets:					
Estimated Authorization Level	135	138	140	143	146
Estimated Outlays	135	138	140	143	146
Metering:					
Estimated Authorization Level	20	20	20	20	20
Estimated Outlays	20	20	20	20	20
Other Provisions:					
Estimated Authorization Level	10	20	30	40	50
Estimated Outlays	8	18	30	40	50
Other Reports:					
Estimated Authorization Level	15	20	5	0	0
Estimated Outlays	15	20	5	0	0
Total Changes:					
Estimated Authorization Level	180	298	295	263	336
Estimated Outlays	178	296	295	263	336

Greenhouse Gas Reductions. Section 102 would require federal agencies to reduce their greenhouse gas emissions by freezing emissions in 2010 and then reducing emissions by at least 2 percent each year.

In the initial years following enactment of H.R. 2635, CBO expects that agencies would primarily rely on the purchase of qualified greenhouse gas offsets and renewable energy certificates to achieve the required reductions in carbon dioxide emissions. Under the bill, such offsets could be purchased by an agency from other federal or nonfederal entities to help meet its own greenhouse gas reduction requirements. Offset projects might range from buying credits for carbon sequestration that results from planting trees to financing energy-efficient upgrades at power plants in other cities. A recent Government Accountability Office (GAO) report¹ estimates that the annual costs of such offsets range from \$5 to \$25

¹ Government Accountability Office, Legislative Branch Energy Audits Are Key to Strategy for Reducing Greenhouse Gas Emissions, GAO-07-516 (April 2007).

per ton. The market for such offsets is currently in its infancy, as few entities are actually required to reduce greenhouse gas emissions or acquire energy from renewable sources. If H.R. 2635 were enacted, the market for such offsets would become more regulated, and CBO expects that with significant additional demand the price of greenhouse gas emission offsets would rise to at least \$25 per ton. CBO estimates that the federal government would have to purchase carbon reduction credits for about 2.2 million metric tons annually starting in 2010 to meet the goals of H.R. 2635. We estimate that those offsets would cost \$60 million in 2011 and \$179 million over the 2011–2012 period, assuming the appropriation of the necessary amounts.

Federal Vehicle Fleets. Section 201 would require federal agencies to purchase light-duty and medium-duty passenger vehicles that are low greenhouse gas-emitting vehicles. EPA would be required each year to issue guidance identifying the vehicles that emit low levels of greenhouse gases. Currently, the General Services Administration (GSA) purchases around 60,000 new vehicles annually for the federal government's use. Of that amount, approximately 45,000 vehicles are light- and medium-duty passenger vehicles. Although there is no current standard for low greenhouse gas-emitting vehicles, based on information from GSA and GAO, it appears that more fuel-efficient vehicles, including hybrid and alternative-fuel vehicles, would probably add at least \$3,000 to the price of a standard vehicle. Using that information, CBO estimates that acquiring low greenhouse gas-emitting vehicles under H.R. 2635 would cost about \$135 million in 2008 and about \$700 million over the 2008–2012 period. The federal government also could realize cost savings from reduced gasoline purchases if the vehicles it purchases achieve greater gasoline mileage. CBO expects, however, that any savings in the operating costs of federal vehicles would not be significant over the next five years.

Metering. Section 205 would require that all federal agencies install meters to record the use of natural gas, steam, chilled water, and water by October 1, 2016. Such meters could provide data on an hourly or daily time frame to measure consumption of electricity. The federal government operates in more than 500,000 buildings. Many federal buildings use natural gas, steam, chilled water, and water. Based on information from the General Services Administration, the Department of Defense, and the Department of Energy, CBO expects that about 20 percent of those buildings would be economical to meter, and implementing the metering provision would cost about \$20 million in 2008 and \$100 million over the 2008–2012 period.

Other Provisions. Other provisions of H.R. 2635 would require EPA to oversee and manage the greenhouse gas emissions of federal agencies, including establishing a carbon cap-and-trade program for use by federal agencies. In addition, the legislation would add significant new reporting requirements by federal agencies on their greenhouse gas emissions and energy use. Based on information from agencies and the cost of similar requirements, CBO estimates that implementing those provisions would cost \$8 million in 2008 and about \$150 million over the 2008–2012 period.

Other Reports. Section 102 would require the Forest Service, the Bureau of Land Management, the National Park Service, and the

United States Fish and Wildlife Service to conduct studies to identify management strategies to enhance the potential for sequestration of greenhouse gases on federal lands and to implement programs on selected sites demonstrating sequestration strategies. Carbon sequestration is the process by which carbon dioxide is removed from the atmosphere; forests, oceans, and soils are natural carbon sinks (areas that remove carbon from the atmosphere).

The studies would be completed within two years of enactment, and the projects would be implemented the following year. Based on information provided by the agencies, CBO estimates that these activities would cost \$15 million in 2008 and \$40 million over the 2008–2010 period.

Intergovernmental and private-sector impact: H.R. 2635 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs; Matthew Pickford, Robert G. Shackleton, and David Reynolds; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private-Sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

ENERGY POLICY ACT OF 1992

* * * * *

TITLE III—ALTERNATIVE FUELS— GENERAL

* * * * *

SEC. 303. MINIMUM FEDERAL FLEET REQUIREMENT.

(a) * * *

* * * * *

(f) *VEHICLE EMISSION REQUIREMENTS.*—

(1) *PROHIBITION.*—*No Federal agency shall acquire a light duty motor vehicle or medium duty passenger vehicle that is not a low greenhouse gas emitting vehicle.*

(2) *GUIDANCE.*—*Each year, the Administrator of the Environmental Protection Agency shall issue guidance identifying the makes and model numbers of vehicles that are low greenhouse gas emitting vehicles. In identifying such vehicles, the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable*

against motor vehicle manufacturers for vehicles sold anywhere in the United States. The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for the manufacturer's fleet average grams per mile of carbon dioxide-equivalent emissions for that class of vehicle, taking into account any emissions allowances and adjustment factors such standards provide.

(3) DEFINITION.—For purposes of this subsection, the term “medium duty passenger vehicle” has the meaning given that term section 523.2 of title 49 of the Code of Federal Regulations.

[(f)] (g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

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NATIONAL ENERGY CONSERVATION POLICY ACT

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TITLE V—FEDERAL ENERGY INITIATIVE

* * * * *

PART 3—FEDERAL ENERGY MANAGEMENT

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SEC. 543. ENERGY MANAGEMENT REQUIREMENTS.

(a) * * *

* * * * *

(e) METERING OF ENERGY USE.—

(1) DEADLINE.—By October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. *By October 1, 2016, each agency shall also provide for equivalent metering of natural gas, steam, chilled water, and water, in accordance with guidelines established by the Secretary under paragraph (2).* Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility managers.

* * * * *

(f) ENERGY PERFORMANCE BENCHMARKING.—

(1) REQUIREMENTS.—*Each Federal agency shall, with respect to each of its Federal buildings with greater than 40,000 square feet of space or greater than \$75,000 per year in energy costs,*

annually benchmark the energy efficiency performance of the building and, where feasible, rate that performance compared to similar buildings.

(2) *BENCHMARKING AND RATING TOOL.*—A Federal agency shall use the Energy Star Portfolio Manager Buildings Benchmark Tool in carrying out paragraph (1). If the building is a type of building for which that tool does not allow rating the building's comparative performance, and the Federal Energy Management Program has identified an appropriate tool for rating the building's comparative performance, the agency may use such tool to benchmark and rate the building's performance.

(3) *USE OF INFORMATION TO ENHANCE BUILDING MANAGEMENT.*—The Federal facilities manager for each building subject to the requirements in paragraph (1) shall use the benchmark performance, rating, and annual energy costs to identify and evaluate opportunities for improving the building's energy efficiency performance and reducing costs.

(4) *PUBLIC DISCLOSURE.*—Each Federal agency shall post the benchmarking information generated under this subsection, along with each building's annual energy use per square foot and energy costs, on the agency's website. The agency shall update such information each year, and shall include in such reporting previous years' information to allow changes in building performance to be tracked over time.

(g) *RECOMMISSIONING AND DIAGNOSTIC ENERGY AUDIT.*—

(1) *REQUIREMENT.*—Each Federal agency shall each year re-commission or retrocommission, as applicable, and conduct a diagnostic energy audit with respect to, approximately 20 percent of its Federal buildings with greater than 40,000 square feet of space or greater than \$75,000 per year in energy costs, so that all such buildings are recommissioned or retrocommissioned, as applicable, and audited at least once every 5 years.

(2) *USE OF INFORMATION TO ENHANCE BUILDING MANAGEMENT.*—The Federal facilities manager for each building and the agency official responsible for facilities management shall use the information produced from the energy audits under paragraph (1) as a management tool for prioritizing capital expenditures for maintenance and building upgrades and allocating such expenditures within a facility and across all of the agency's facilities, as applicable.

(h) *LARGE CAPITAL ENERGY INVESTMENTS.*—Each Federal agency shall ensure that any large capital energy investment in an existing building that is not a major renovation but involves replacement of installed equipment, such as heating and cooling systems, or involves renovation, rehabilitation, expansion, or remodeling of existing space, employs the most energy efficient designs, systems, equipment, and controls that are life-cycle cost effective. Not later than 6 months after the date of enactment of the Carbon-Neutral Government Act of 2007, each Federal agency shall develop a process for reviewing each such large capital energy investment decision to ensure that the requirement of this subsection is met, and shall report to the Office of Management and Budget on the process established. This process shall incorporate the information produced under sub-

sections (f) and (g). Not later than one year after the date of enactment of the Carbon-Neutral Government Act of 2007, the Office of Management and Budget shall evaluate and report to Congress on each agency's compliance with this subsection.

* * * * *

SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) * * *

(b) **PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—**

(1) **REQUIREMENT.**—To meet the requirements of an agency for an energy consuming product *in a product category covered by the Energy Star program or the Federal Energy Management Program for designated products*, the head of the agency shall, except as provided in paragraph (2), procure—

(A) * * *

* * * * *

(2) **EXCEPTIONS.**—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds **in writing** that—

[(A) an Energy Star] in writing that an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into **account; or**

[(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency] account.

* * * * *

(c) **LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.**—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall *list in their catalogues, represent as available, and* supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases **[where the agency] where the head of the agency** ordering a product specifies in **[writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or]** *writing* that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

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ENERGY CONSERVATION AND PRODUCTION ACT

* * * * *

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

* * * * *

DEFINITIONS

SEC. 303. As used in this title:

(1) * * *

* * * * *

(6) The term “Federal building” means any building to be constructed by, or for the use of, any Federal agency [which is not legally subject to State or local building codes or similar requirements.]. *Such term shall include buildings built for the purpose of being leased by a Federal agency, and privatized military housing.*

* * * * *

(17) *The term “major renovation” means the renovation of a major component or substantial structural part of a building that materially increases the value of the building, substantially prolongs the useful life of the building, or adapts the building to a new or different use.*

* * * * *

SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

(a)(1) * * *

* * * * *

(3)(A) * * *

* * * * *

(D) *Not later than 1 year after the date of enactment of the Carbon-Neutral Government Act of 2007, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that:*

(i) *For new Federal buildings and Federal buildings undergoing major renovations:*

(I) *The buildings shall be designed so that the fossil fuel-generated energy consumption of the buildings is reduced, as compared with such energy consumption by a similar building in fiscal year 2003 (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency), by the percentage specified in the following table:*

<i>Fiscal Year</i>	<i>Percentage Reduction</i>
2010	60
2015	70
2020	80
2025	90
2030	100.

(II) *Sustainable design principles shall be applied to the siting, design, and construction of such buildings. For building types for which the United States Green Building Council Leadership in Energy and Environmental Design (LEED) certification for New Construction and Major Renovation is applicable, such buildings shall be designed to*

meet, at a minimum, the LEED silver level standard (or any successor standard thereto), or if any additional capital cost is projected to be recoverable through energy and other operational cost savings within 10 years, the LEED gold level standard (or any successor standard thereto).

(ii) In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

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TITLE 40, UNITED STATES CODE

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SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES

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CHAPTER 5—PROPERTY MANAGEMENT

* * * * *

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

* * * * *

§ 501. Services for executive agencies

(a) * * *

(b) **PROCUREMENT AND SUPPLY.—**

(1) **FUNCTIONS.—**

(A) * * *

(B) **PUBLIC UTILITY CONTRACTS.—****[A contract]** *Except as provided in subparagraph (C), a contract for public utility services may be made for a period of not more than 10 years.*

(C) **RENEWABLE ENERGY CONTRACTS.—***A contract for renewable energy may be made for a period of not more than 20 years. For the purposes of this subparagraph, the term “renewable energy” has the meaning given that term in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)(2)), except that energy generated from municipal solid waste shall not be considered renewable energy.*

* * * * *

ADDITIONAL VIEWS

H.R. 2635, the Carbon-Neutral Government Act of 2007, is a bold effort to put the Federal Government in a leadership position in mitigating the build up of carbon dioxide in our atmosphere. We agree with Chairman Waxman that the Federal Government must be proactive and take an aggressive leadership role in this effort to mitigate the harmful effects of climate change.

While H.R. 2635 was ultimately agreed to by unanimous consent, several Members of the Committee expressed reservations about the bill because of the “judicial review” provisions. Several Members of the Committee simply preferred these provisions be stricken from the bill. In response to these concerns, Chairman Waxman engaged in an earnest dialogue with us to address these concerns.

While we wholeheartedly acknowledge that through this collaborative process the “judicial review” provisions have been improved in scope and application and other significant safeguards have been put in place to protect against strategic behavior on the part of plaintiff’s attorneys, some Members remain unenthusiastic about including the revised provisions.

We know there will be further study and consideration of these provisions—particularly by the Committee on the Judiciary—in light of the potential burden the bill could place on the Federal judicial system, the “standing” issues involved, and the potential precedent setting nature of the legislation. We welcome the necessary further review and debate by the Judiciary Committee (and others as needed) on the issues raised by this bill.

TOM DAVIS,
DARRELL ISSA,
BRIAN BILBRAY,
PATRICK MCHENRY.

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