

# H-Prize Act of 2006 (Reported in House)

HR 5143 RH

## Union Calendar No. 254

109th CONGRESS

2d Session

## H. R. 5143

[Report No. 109-456]

To authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy.

### IN THE HOUSE OF REPRESENTATIVES

**April 6, 2006**

Mr. INGLIS of South Carolina (for himself, Mr. LIPINSKI, Mr. KINGSTON, Mr. WAMP, Mr. WOLF, Mr. BOEHLERT, Mr. EHLERS, Mr. BARTLETT of Maryland, Mr. WYNN, Mr. DENT, Mr. LARSON of Connecticut, Mr. MCCAUL of Texas, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, and Mr. TERRY) introduced the following bill; which was referred to the Committee on Science

**May 9, 2006**

Additional sponsors: Mr. ISSA, Mr. BARRETT of South Carolina, Mr. MCHENRY, Mr. CALVERT, Mr. WELDON of Pennsylvania, Mrs. JOHNSON of Connecticut, Mr. FEENEY, Mr. WICKER, Mr. DOOLITTLE, Ms. LORETTA SANCHEZ of California, Mr. REICHERT, and Mr. JOHNSON of Illinois

**May 9, 2006**

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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### A BILL

To authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy.

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

## **SECTION 1. SHORT TITLE.**

*This Act may be cited as the `H-Prize Act of 2006'.*

## **SEC. 2. DEFINITIONS.**

*In this Act:*

*(1) ADMINISTERING ENTITY- The term `administering entity' means the entity with which the Secretary enters into an agreement under section 3(c).*

*(2) DEPARTMENT- The term `Department' means the Department of Energy.*

*(3) SECRETARY- The term `Secretary' means the Secretary of Energy.*

## **SEC. 3. PRIZE AUTHORITY.**

*(a) In General- The Secretary shall carry out a program to competitively award cash prizes only in conformity with this Act to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.*

*(b) Advertising and Solicitation of Competitors-*

*(1) ADVERTISING- The Secretary shall widely advertise prize competitions to encourage broad participation, including by individuals, universities (including historically Black colleges and universities and other minority serving institutions), and large and small businesses (including businesses owned or controlled by socially and economically disadvantaged persons).*

*(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE- The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.*

*(c) Administering the Competitions- The Secretary shall enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to the provisions of this Act. The duties of the administering entity under the agreement shall include--*

*(1) advertising prize competitions and their results;*

*(2) raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes;*

*(3) working with the Secretary to develop the criteria for selecting winners in prize competitions, based on goals provided by the Secretary;*

- (4) *determining, in consultation with the Secretary, the appropriate amount for each prize to be awarded under section 4(b)(3); and*
      - (5) *selecting judges in accordance with section 4(d), using criteria developed in consultation with the Secretary.*
  - (d) *Funding Sources- Prizes under this Act may consist of Federal appropriated funds and funds provided by the administering entity (including funds raised pursuant to subsection (c)(2)) for such cash prizes. The Secretary may accept funds from other Federal agencies for such cash prizes. The Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the administering entity.*
  - (e) *Announcement of Prizes- The Secretary may not issue a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity. The Secretary may increase the amount of a prize after an initial announcement is made under subsection (b)(2) if--*
    - (1) notice of the increase is provided in the same manner as the initial notice of the prize; and*
    - (2) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.*
  - (f) *Sunset- The authority to announce prize competitions under this Act shall terminate on September 30, 2017.*

## **SEC. 4. PRIZE CATEGORIES.**

- (a) *Categories- The Secretary shall establish prizes for--*
  - (1) advancements in components or systems related to--*
    - (A) hydrogen production;*
    - (B) hydrogen storage;*
    - (C) hydrogen distribution; and*
    - (D) hydrogen utilization;*
  - (2) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and*
  - (3) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology.*
- (b) *Awards-*
  - (1) ADVANCEMENTS- To the extent permitted under section 3(e), the prizes authorized under subsection (a)(1) shall be awarded biennially to the most significant advance made in each*

of the four subcategories described in subparagraphs (A) through (D) of subsection (a)(1) since the submission deadline of the previous prize competition in the same category under subsection (a)(1) or the date of enactment of this Act, whichever is later. No one such prize may exceed \$1,000,000. If less than \$4,000,000 is available for a prize competition under subsection (a)(1), the Secretary may omit one or more subcategories, reduce the amount of the prizes, or not hold a prize competition.

(2) *PROTOTYPES*- To the extent permitted under section 3(e), prizes authorized under subsection (a)(2) shall be awarded biennially in alternate years from the prizes authorized under subsection (a)(1). The Secretary is authorized to award up to one prize in this category in each 2-year period. No such prize may exceed \$4,000,000. If no registered participants meet the objective performance criteria established pursuant to subsection (c) for a competition under this paragraph, the Secretary shall not award a prize.

(3) *TRANSFORMATIONAL TECHNOLOGIES*- To the extent permitted under section 3(e), the Secretary shall announce at least one prize competition authorized under subsection (a)(3) as soon after the date of enactment of this Act as is practicable. To the extent permitted under section 3(e), the Secretary may announce additional prize competitions authorized under subsection (a)(3) as appropriate to accelerate the development and adoption of hydrogen technologies. A prize offered under this paragraph shall be not less than \$10,000,000, paid to the winner in a lump sum, and an additional amount paid to the winner as a match for each dollar of private funding raised by the winner for the hydrogen technology beginning on the date the winner was named. The match shall be provided for 3 years after the date the prize winner is named or until the full amount of the prize has been paid out, whichever occurs first. A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology. The Secretary shall announce the rules for receiving the match in the notice required by section 3(b)(2). The Secretary shall award a prize under this paragraph only when a registered participant has met the objective criteria established for the prize pursuant to subsection (c) and announced pursuant to section 3(b)(2). Not more than \$10,000,000 in Federal funds may be used for each prize award under this paragraph. The administering entity shall seek to raise \$40,000,000 toward each matching award under this paragraph.

(c) *Criteria*- In establishing the criteria required by this Act, the Secretary shall consult with--

(1) the Department's Hydrogen Technical and Fuel Cell Advisory Committee;

- (2) other Federal agencies, including the National Science Foundation; and*
- (3) private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.*

*(d) Judges- For each prize competition, the Secretary shall assemble a panel of qualified judges to select the winner or winners on the basis of the criteria established under subsection (c). Judges for each prize competition shall include individuals from outside the Department, including from the private sector. A judge may not--*

- (1) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which he or she will serve as a judge; or*
- (2) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which he or she will serve as a judge.*

## **SEC. 5. ELIGIBILITY.**

*To be eligible to win a prize under this Act, an individual or entity--*

- (1) shall have complied with all the requirements in accordance with the Federal Register notice required under section 3(b)(2);*
- (2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and*
- (3) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.*

## **SEC. 6. INTELLECTUAL PROPERTY.**

*The Federal Government shall not, by virtue of offering or awarding a prize under this Act, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this Act. This section shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this Act.*

## **SEC. 7. LIABILITY.**

*(a) Waiver of Liability- Registered participants shall be required to agree to assume any and all risks, and waive claims against the Federal Government and its related entities, except in the case of*

*willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition under this Act, whether such injury, death, damage, or loss arises through negligence or otherwise. For the purposes of this subsection, the term `related entity' means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.*

*(b) Liability Insurance-*

*(1) REQUIREMENTS- Registered participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by--*

*(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this Act; and*

*(B) the Federal Government for damage or loss to Government property resulting from such an activity.*

*(2) FEDERAL GOVERNMENT INSURED- The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under paragraph (1)(A), and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.*

## **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

*(a) Authorization of Appropriations- There are authorized to be appropriated to the Secretary for carrying out this Act \$11,000,000 for each of the fiscal years 2007 through 2016, of which no more than \$2,000,000 for any fiscal year may be used for administrative expenses.*

*(b) Carryover of Funds- Funds appropriated for prize awards under this Act shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this Act permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).*

## **SEC. 9. NONSUBSTITUTION.**

*The programs created under this Act shall not be considered a substitute for Federal research and development programs.*