

13

AMENDMENT TO H.R. 3221
OFFERED BY MR. LIPINSKI OF ILLINOIS

In title IV, add at the end the following new subtitle:

1 **Subtitle H—H-PRIZE**

2 **SEC. 4701. H-PRIZE.**

3 Section 1008 of the Energy Policy Act of 2005 (42
4 U.S.C. 16396) is amended by adding at the end the fol-
5 lowing new subsection:

6 “(f) H-PRIZE.—

7 “(1) PRIZE AUTHORITY.—

8 “(A) IN GENERAL.—As part of the pro-
9 gram under this section, the Secretary shall
10 carry out a program to competitively award
11 cash prizes in conformity with this subsection
12 to advance the research, development, dem-
13 onstration, and commercial application of hy-
14 drogen energy technologies.

15 “(B) ADVERTISING AND SOLICITATION OF
16 COMPETITORS.—

17 “(i) ADVERTISING.—The Secretary
18 shall widely advertise prize competitions
19 under this subsection to encourage broad
20 participation, including by individuals, uni-

1 versities (including historically Black col-
2 leges and universities and other minority
3 serving institutions), and large and small
4 businesses (including businesses owned or
5 controlled by socially and economically dis-
6 advantaged persons).

7 “(ii) ANNOUNCEMENT THROUGH FED-
8 ERAL REGISTER NOTICE.—The Secretary
9 shall announce each prize competition
10 under this subsection by publishing a no-
11 tice in the Federal Register. This notice
12 shall include essential elements of the com-
13 petition such as the subject of the competi-
14 tion, the duration of the competition, the
15 eligibility requirements for participation in
16 the competition, the process for partici-
17 pants to register for the competition, the
18 amount of the prize, and the criteria for
19 awarding the prize.

20 “(C) ADMINISTERING THE COMPETI-
21 TIONS.—The Secretary shall enter into an
22 agreement with a private, nonprofit entity to
23 administer the prize competitions under this
24 subsection, subject to the provisions of this sub-
25 section (in this subsection referred to as the

1 'administering entity'). The duties of the ad-
2 ministering entity under the agreement shall in-
3 clude—

4 “(i) advertising prize competitions
5 under this subsection and their results;

6 “(ii) raising funds from private enti-
7 ties and individuals to pay for administra-
8 tive costs and to contribute to cash prizes,
9 including funds provided in exchange for
10 the right to name a prize awarded under
11 this subsection;

12 “(iii) developing, in consultation with
13 and subject to the final approval of the
14 Secretary, the criteria for selecting winners
15 in prize competitions under this subsection,
16 based on goals provided by the Secretary;

17 “(iv) determining, in consultation with
18 the Secretary, the appropriate amount and
19 funding sources for each prize to be award-
20 ed under this subsection, subject to the
21 final approval of the Secretary with respect
22 to Federal funding;

23 “(v) providing advice and consultation
24 to the Secretary on the selection of judges
25 in accordance with paragraph (2)(D),

1 using criteria developed in consultation
2 with and subject to the final approval of
3 the Secretary; and

4 “(vi) protecting against the admin-
5 istering entity’s unauthorized use or disclo-
6 sure of a registered participant’s trade se-
7 crets and confidential business informa-
8 tion. Any information properly identified
9 as trade secrets or confidential business in-
10 formation that is submitted by a partici-
11 pant as part of a competitive program
12 under this subsection may be withheld
13 from public disclosure.

14 “(D) FUNDING SOURCES.—Prizes under
15 this subsection shall consist of Federal appro-
16 priated funds and any funds provided by the
17 administering entity (including funds raised
18 pursuant to subparagraph (C)(ii)) for such cash
19 prize programs. The Secretary may accept
20 funds from other Federal agencies for such
21 cash prizes and, notwithstanding section
22 3302(b) of title 31, United States Code, may
23 use such funds for the cash prize program
24 under this subsection. Other than publication of
25 the names of prize sponsors, the Secretary may

1 not give any special consideration to any private
2 sector entity or individual in return for a dona-
3 tion to the Secretary or administering entity.

4 “(E) ANNOUNCEMENT OF PRIZES.—The
5 Secretary may not issue a notice required by
6 subparagraph (B)(ii) until all the funds needed
7 to pay out the announced amount of the prize
8 have been appropriated or committed in writing
9 by the administering entity. The Secretary may
10 increase the amount of a prize after an initial
11 announcement is made under subparagraph
12 (B)(ii) if—

13 “(i) notice of the increase is provided
14 in the same manner as the initial notice of
15 the prize; and

16 “(ii) the funds needed to pay out the
17 announced amount of the increase have
18 been appropriated or committed in writing
19 by the administering entity.

20 “(F) SUNSET.—The authority to announce
21 prize competitions under this subsection shall
22 terminate on September 30, 2018.

23 “(2) PRIZE CATEGORIES.—

24 “(A) CATEGORIES.—The Secretary shall
25 establish prizes under this subsection for—

1 “(i) advancements in technologies,
2 components, or systems related to—

3 “(I) hydrogen production;

4 “(II) hydrogen storage;

5 “(III) hydrogen distribution; and

6 “(IV) hydrogen utilization;

7 “(ii) prototypes of hydrogen-powered
8 vehicles or other hydrogen-based products
9 that best meet or exceed objective perform-
10 ance criteria, such as completion of a race
11 over a certain distance or terrain or gen-
12 eration of energy at certain levels of effi-
13 ciency; and

14 “(iii) transformational changes in
15 technologies for the distribution or produc-
16 tion of hydrogen that meet or exceed far-
17 reaching objective criteria, which shall in-
18 clude minimal carbon emissions and which
19 may include cost criteria designed to facili-
20 tate the eventual market success of a win-
21 ning technology.

22 “(B) AWARDS.—

23 “(i) ADVANCEMENTS.—To the extent
24 permitted under paragraph (1)(E), the
25 prizes authorized under subparagraph

1 (A)(i) shall be awarded biennially to the
2 most significant advance made in each of
3 the four subcategories described in sub-
4 clauses (I) through (IV) of subparagraph
5 (A)(i) since the submission deadline of the
6 previous prize competition in the same cat-
7 egory under subparagraph (A)(i) or the
8 date of enactment of this subsection,
9 whichever is later, unless no such advance
10 is significant enough to merit an award.
11 No one such prize may exceed \$1,000,000.
12 If less than \$4,000,000 is available for a
13 prize competition under subparagraph
14 (A)(i), the Secretary may omit one or more
15 subcategories, reduce the amount of the
16 prizes, or not hold a prize competition.

17 “(ii) PROTOTYPES.—To the extent
18 permitted under paragraph (1)(E), prizes
19 authorized under subparagraph (A)(ii)
20 shall be awarded biennially in alternate
21 years from the prizes authorized under
22 subparagraph (A)(i). The Secretary is au-
23 thorized to award up to one prize in this
24 category in each 2-year period. No such
25 prize may exceed \$4,000,000. If no reg-

1 istered participants meet the objective per-
2 formance criteria established pursuant to
3 subparagraph (C) for a competition under
4 this clause, the Secretary shall not award
5 a prize.

6 “(iii) TRANSFORMATIONAL TECH-
7 NOLOGIES.—To the extent permitted under
8 paragraph (1)(E), the Secretary shall an-
9 nounce one prize competition authorized
10 under subparagraph (A)(iii) as soon after
11 the date of enactment of this subsection as
12 is practicable. A prize offered under this
13 clause shall be not less than \$10,000,000,
14 paid to the winner in a lump sum, and an
15 additional amount paid to the winner as a
16 match for each dollar of private funding
17 raised by the winner for the hydrogen tech-
18 nology beginning on the date the winner
19 was named. The match shall be provided
20 for 3 years after the date the prize winner
21 is named or until the full amount of the
22 prize has been paid out, whichever occurs
23 first. A prize winner may elect to have the
24 match amount paid to another entity that
25 is continuing the development of the win-

1 ning technology. The Secretary shall an-
2 nounce the rules for receiving the match in
3 the notice required by paragraph
4 (1)(B)(ii). The Secretary shall award a
5 prize under this clause only when a reg-
6 istered participant has met the objective
7 criteria established for the prize pursuant
8 to subparagraph (C) and announced pursu-
9 ant to paragraph (1)(B)(ii). Not more than
10 \$10,000,000 in Federal funds may be used
11 for the prize award under this clause. The
12 administering entity shall seek to raise
13 \$40,000,000 toward the matching award
14 under this clause.

15 “(C) CRITERIA.—In establishing the cri-
16 teria required by this subsection, the Sec-
17 retary—

18 “(i) shall consult with the Depart-
19 ment’s Hydrogen Technical and Fuel Cell
20 Advisory Committee;

21 “(ii) shall consult with other Federal
22 agencies, including the National Science
23 Foundation; and

24 “(iii) may consult with other experts
25 such as private organizations, including

1 professional societies, industry associa-
2 tions, and the National Academy of
3 Sciences and the National Academy of En-
4 gineering.

5 “(D) JUDGES.—For each prize competition
6 under this subsection, the Secretary in con-
7 sultation with the administering entity shall as-
8 semble a panel of qualified judges to select the
9 winner or winners on the basis of the criteria
10 established under subparagraph (C). Judges for
11 each prize competition shall include individuals
12 from outside the Department, including from
13 the private sector. A judge, spouse, minor chil-
14 dren, and members of the judge’s household
15 may not—

16 “(i) have personal or financial inter-
17 ests in, or be an employee, officer, director,
18 or agent of, any entity that is a registered
19 participant in the prize competition for
20 which he or she will serve as a judge; or

21 “(ii) have a familial or financial rela-
22 tionship with an individual who is a reg-
23 istered participant in the prize competition
24 for which he or she will serve as a judge.

1 “(3) ELIGIBILITY.—To be eligible to win a
2 prize under this subsection, an individual or entity—

3 “(A) shall have complied with all the re-
4 quirements in accordance with the Federal Reg-
5 ister notice required under paragraph
6 (1)(B)(ii);

7 “(B) in the case of a private entity, shall
8 be incorporated in and maintain a primary
9 place of business in the United States, and in
10 the case of an individual, whether participating
11 singly or in a group, shall be a citizen of, or an
12 alien lawfully admitted for permanent residence
13 in, the United States; and

14 “(C) shall not be a Federal entity, a Fed-
15 eral employee acting within the scope of his em-
16 ployment, or an employee of a national labora-
17 tory acting within the scope of his employment.

18 “(4) INTELLECTUAL PROPERTY.—The Federal
19 Government shall not, by virtue of offering or
20 awarding a prize under this subsection, be entitled
21 to any intellectual property rights derived as a con-
22 sequence of, or direct relation to, the participation
23 by a registered participant in a competition author-
24 ized by this subsection. This paragraph shall not be
25 construed to prevent the Federal Government from

1 negotiating a license for the use of intellectual prop-
2 erty developed for a prize competition under this
3 subsection.

4 “(5) LIABILITY.—

5 “(A) WAIVER OF LIABILITY.—The Sec-
6 retary may require registered participants to
7 waive claims against the Federal Government
8 and the administering entity (except claims for
9 willful misconduct) for any injury, death, dam-
10 age, or loss of property, revenue, or profits aris-
11 ing from the registered participants’ participa-
12 tion in a competition under this subsection. The
13 Secretary shall give notice of any waiver re-
14 quired under this subparagraph in the notice
15 required by paragraph (1)(B)(ii). The Secretary
16 may not require a registered participant to
17 waive claims against the administering entity
18 arising out of the unauthorized use or disclo-
19 sure by the administering entity of the reg-
20 istered participant’s trade secrets or confiden-
21 tial business information.

22 “(B) LIABILITY INSURANCE.—

23 “(i) REQUIREMENTS.—Registered
24 participants in a prize competition under
25 this subsection shall be required to obtain

1 liability insurance or demonstrate financial
2 responsibility, in amounts determined by
3 the Secretary, for claims by—

4 “(I) a third party for death, bod-
5 ily injury, or property damage or loss
6 resulting from an activity carried out
7 in connection with participation in a
8 competition under this subsection; and

9 “(II) the Federal Government for
10 damage or loss to Government prop-
11 erty resulting from such an activity.

12 “(ii) FEDERAL GOVERNMENT IN-
13 SURED.—The Federal Government shall be
14 named as an additional insured under a
15 registered participant’s insurance policy re-
16 quired under clause (i)(I), and registered
17 participants shall be required to agree to
18 indemnify the Federal Government against
19 third party claims for damages arising
20 from or related to competition activities
21 under this subsection.

22 “(6) REPORT TO CONGRESS.—Not later than
23 60 days after the awarding of the first prize under
24 this subsection, and annually thereafter, the Sec-

1 retary shall transmit to the Congress a report
2 that—

3 “(A) identifies each award recipient;

4 “(B) describes the technologies developed
5 by each award recipient; and

6 “(C) specifies actions being taken toward
7 commercial application of all technologies with
8 respect to which a prize has been awarded
9 under this subsection.

10 “(7) AUTHORIZATION OF APPROPRIATIONS.—

11 “(A) IN GENERAL.—

12 “(i) AWARDS.—There are authorized
13 to be appropriated to the Secretary for the
14 period encompassing fiscal years 2008
15 through 2017 for carrying out this sub-
16 section—

17 “(I) \$20,000,000 for awards de-
18 scribed in paragraph (2)(A)(i);

19 “(II) \$20,000,000 for awards de-
20 scribed in paragraph (2)(A)(ii); and

21 “(III) \$10,000,000 for the award
22 described in paragraph (2)(A)(iii).

23 “(ii) ADMINISTRATION.—In addition
24 to the amounts authorized in clause (i),
25 there are authorized to be appropriated to

1 the Secretary for each of fiscal years 2008
2 and 2009 \$2,000,000 for the administra-
3 tive costs of carrying out this subsection.

4 “(B) CARRYOVER OF FUNDS.—Funds ap-
5 propriated for prize awards under this sub-
6 section shall remain available until expended,
7 and may be transferred, reprogrammed, or ex-
8 pended for other purposes only after the expira-
9 tion of 10 fiscal years after the fiscal year for
10 which the funds were originally appropriated.
11 No provision in this subsection permits obliga-
12 tion or payment of funds in violation of section
13 1341 of title 31 of the United States Code
14 (commonly referred to as the Anti-Deficiency
15 Act).

16 “(8) NONSUBSTITUTION.—The programs cre-
17 ated under this subsection shall not be considered a
18 substitute for Federal research and development
19 programs.”.

Amend the table of contents accordingly.