

109TH CONGRESS
2^D SESSION

H. R. 5143

AN ACT

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “H-Prize Act of 2006”.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) **ADMINISTERING ENTITY.**—The term “ad-
6 ministering entity” means the entity with which the
7 Secretary enters into an agreement under section
8 3(c).

9 (2) **DEPARTMENT.**—The term “Department”
10 means the Department of Energy.

11 (3) **SECRETARY.**—The term “Secretary” means
12 the Secretary of Energy.

13 **SEC. 3. PRIZE AUTHORITY.**

14 (a) **IN GENERAL.**—The Secretary shall carry out a
15 program to competitively award cash prizes only in con-
16 formity with this Act to advance the research, develop-
17 ment, demonstration, and commercial application of hy-
18 drogen energy technologies.

19 (b) **ADVERTISING AND SOLICITATION OF COMPETI-**
20 **TORS.**—

21 (1) **ADVERTISING.**—The Secretary shall widely
22 advertise prize competitions to encourage broad par-
23 ticipation, including by individuals, universities (in-
24 cluding historically Black colleges and universities
25 and other minority serving institutions), and large
26 and small businesses (including businesses owned or

1 controlled by socially and economically disadvan-
2 tagged persons).

3 (2) ANNOUNCEMENT THROUGH FEDERAL REG-
4 ISTER NOTICE.—The Secretary shall announce each
5 prize competition by publishing a notice in the Fed-
6 eral Register. This notice shall include the subject of
7 the competition, the duration of the competition, the
8 eligibility requirements for participation in the com-
9 petition, the process for participants to register for
10 the competition, the amount of the prize, and the
11 criteria for awarding the prize.

12 (c) ADMINISTERING THE COMPETITIONS.—The Sec-
13 retary shall enter into an agreement with a private, non-
14 profit entity to administer the prize competitions, subject
15 to the provisions of this Act. The duties of the admin-
16 istering entity under the agreement shall include—

17 (1) advertising prize competitions and their re-
18 sults;

19 (2) raising funds from private entities and indi-
20 viduals to pay for administrative costs and to con-
21 tribute to cash prizes;

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

1 (4) determining, in consultation with the Sec-
2 retary, the appropriate amount for each prize to be
3 awarded;

4 (5) selecting judges in accordance with section
5 4(d), using criteria developed in consultation with
6 the Secretary; and

7 (6) preventing the unauthorized use or disclo-
8 sure of a registered participant's intellectual prop-
9 erty, trade secrets, and confidential business infor-
10 mation.

11 (d) FUNDING SOURCES.—Prizes under this Act shall
12 consist of Federal appropriated funds and any funds pro-
13 vided by the administering entity (including funds raised
14 pursuant to subsection (c)(2)) for such cash prizes. The
15 Secretary may accept funds from other Federal agencies
16 for such cash prizes. The Secretary may not give any spe-
17 cial consideration to any private sector entity or individual
18 in return for a donation to the administering entity.

19 (e) ANNOUNCEMENT OF PRIZES.—The Secretary
20 may not issue a notice required by subsection (b)(2) until
21 all the funds needed to pay out the announced amount
22 of the prize have been appropriated or committed in writ-
23 ing by the administering entity. The Secretary may in-
24 crease the amount of a prize after an initial announcement
25 is made under subsection (b)(2) if—

1 (1) notice of the increase is provided in the
2 same manner as the initial notice of the prize; and

3 (2) the funds needed to pay out the announced
4 amount of the increase have been appropriated or
5 committed in writing by the administering entity.

6 (f) SUNSET.—The authority to announce prize com-
7 petitions under this Act shall terminate on September 30,
8 2017.

9 **SEC. 4. PRIZE CATEGORIES.**

10 (a) CATEGORIES.—The Secretary shall establish
11 prizes for—

12 (1) advancements in components or systems re-
13 lated to—

14 (A) hydrogen production;

15 (B) hydrogen storage;

16 (C) hydrogen distribution; and

17 (D) hydrogen utilization;

18 (2) prototypes of hydrogen-powered vehicles or
19 other hydrogen-based products that best meet or ex-
20 ceed objective performance criteria, such as comple-
21 tion of a race over a certain distance or terrain or
22 generation of energy at certain levels of efficiency;
23 and

24 (3) transformational changes in technologies for
25 the distribution or production of hydrogen that meet

1 or exceed far-reaching objective criteria, which shall
2 include minimal carbon emissions and which may in-
3 clude cost criteria designed to facilitate the eventual
4 market success of a winning technology.

5 (b) AWARDS.—

6 (1) ADVANCEMENTS.—To the extent permitted
7 under section 3(e), the prizes authorized under sub-
8 section (a)(1) shall be awarded biennially to the
9 most significant advance made in each of the four
10 subcategories described in subparagraphs (A)
11 through (D) of subsection (a)(1) since the submis-
12 sion deadline of the previous prize competition in the
13 same category under subsection (a)(1) or the date of
14 enactment of this Act, whichever is later, unless no
15 such advance is significant enough to merit an
16 award. No one such prize may exceed \$1,000,000. If
17 less than \$4,000,000 is available for a prize competi-
18 tion under subsection (a)(1), the Secretary may omit
19 one or more subcategories, reduce the amount of the
20 prizes, or not hold a prize competition.

21 (2) PROTOTYPES.—To the extent permitted
22 under section 3(e), prizes authorized under sub-
23 section (a)(2) shall be awarded biennially in alter-
24 nate years from the prizes authorized under sub-
25 section (a)(1). The Secretary is authorized to award

1 up to one prize in this category in each 2-year pe-
2 riod. No such prize may exceed \$4,000,000. If no
3 registered participants meet the objective perform-
4 ance criteria established pursuant to subsection (c)
5 for a competition under this paragraph, the Sec-
6 retary shall not award a prize.

7 (3) TRANSFORMATIONAL TECHNOLOGIES.—To
8 the extent permitted under section 3(e), the Sec-
9 retary shall announce one prize competition author-
10 ized under subsection (a)(3) as soon after the date
11 of enactment of this Act as is practicable. A prize
12 offered under this paragraph shall be not less than
13 \$10,000,000, paid to the winner in a lump sum, and
14 an additional amount paid to the winner as a match
15 for each dollar of private funding raised by the win-
16 ner for the hydrogen technology beginning on the
17 date the winner was named. The match shall be pro-
18 vided for 3 years after the date the prize winner is
19 named or until the full amount of the prize has been
20 paid out, whichever occurs first. A prize winner may
21 elect to have the match amount paid to another enti-
22 ty that is continuing the development of the winning
23 technology. The Secretary shall announce the rules
24 for receiving the match in the notice required by sec-
25 tion 3(b)(2). The Secretary shall award a prize

1 under this paragraph only when a registered partici-
2 pant has met the objective criteria established for
3 the prize pursuant to subsection (c) and announced
4 pursuant to section 3(b)(2). Not more than
5 \$10,000,000 in Federal funds may be used for the
6 prize award under this paragraph. The admin-
7 istering entity shall seek to raise \$40,000,000 to-
8 ward the matching award under this paragraph.

9 (c) CRITERIA.—In establishing the criteria required
10 by this Act, the Secretary shall consult with—

11 (1) the Department’s Hydrogen Technical and
12 Fuel Cell Advisory Committee;

13 (2) other Federal agencies, including the Na-
14 tional Science Foundation; and

15 (3) private organizations, including professional
16 societies, industry associations, and the National
17 Academy of Sciences and the National Academy of
18 Engineering.

19 (d) JUDGES.—For each prize competition, the Sec-
20 retary shall assemble a panel of qualified judges to select
21 the winner or winners on the basis of the criteria estab-
22 lished under subsection (c). Judges for each prize competi-
23 tion shall include individuals from outside the Depart-
24 ment, including from the private sector. A judge may
25 not—

1 (1) have personal or financial interests in, or be
2 an employee, officer, director, or agent of, any entity
3 that is a registered participant in the prize competi-
4 tion for which he or she will serve as a judge; or

5 (2) have a familial or financial relationship with
6 an individual who is a registered participant in the
7 prize competition for which he or she will serve as
8 a judge.

9 **SEC. 5. ELIGIBILITY.**

10 To be eligible to win a prize under this Act, an indi-
11 vidual or entity—

12 (1) shall have complied with all the require-
13 ments in accordance with the Federal Register no-
14 tice required under section 3(b)(2);

15 (2) in the case of a private entity, shall be in-
16 corporated in and maintain a primary place of busi-
17 ness in the United States, and in the case of an in-
18 dividual, whether participating singly or in a group,
19 shall be a citizen of, or an alien lawfully admitted
20 for permanent residence in, the United States; and

21 (3) shall not be a Federal entity, a Federal em-
22 ployee acting within the scope of his employment, or
23 an employee of a national laboratory acting within
24 the scope of his employment.

1 SEC. 6. INTELLECTUAL PROPERTY.

2 The Federal Government shall not, by virtue of offer-
3 ing or awarding a prize under this Act, be entitled to any
4 intellectual property rights derived as a consequence of,
5 or direct relation to, the participation by a registered par-
6 ticipant in a competition authorized by this Act. This sec-
7 tion shall not be construed to prevent the Federal Govern-
8 ment from negotiating a license for the use of intellectual
9 property developed for a prize competition under this Act.

10 SEC. 7. LIABILITY.

11 (a) WAIVER OF LIABILITY.—The Secretary may re-
12 quire registered participants to waive claims against the
13 Federal Government and the administering entity (except
14 claims for willful misconduct) for any injury, death, dam-
15 age, or loss of property, revenue, or profits arising from
16 the registered participants' participation in a competition
17 under this Act. The Secretary shall give notice of any
18 waiver required under this subsection in the notice re-
19 quired by section 3(b)(2). The Secretary may not require
20 a registered participant to waive claims against the admin-
21 istering entity arising out of the unauthorized use or dis-
22 closure by the administering entity of the registered par-
23 ticipant's intellectual property, trade secrets, or confiden-
24 tial business information.

25 (b) LIABILITY INSURANCE.—

1 (1) REQUIREMENTS.—Registered participants
2 shall be required to obtain liability insurance or
3 demonstrate financial responsibility, in amounts de-
4 termined by the Secretary, for claims by—

5 (A) a third party for death, bodily injury,
6 or property damage or loss resulting from an
7 activity carried out in connection with participa-
8 tion in a competition under this Act; and

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

12 (2) FEDERAL GOVERNMENT INSURED.—The
13 Federal Government shall be named as an additional
14 insured under a registered participant’s insurance
15 policy required under paragraph (1)(A), and reg-
16 istered participants shall be required to agree to in-
17 demnify the Federal Government against third party
18 claims for damages arising from or related to com-
19 petition activities.

20 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) AWARDS.—There are authorized to be ap-
23 propriated to the Secretary for the period encom-
24 passing fiscal years 2007 through 2016 for carrying
25 out this Act—

1 (A) \$20,000,000 for awards described in
2 section 4(a)(1);

3 (B) \$20,000,000 for awards described in
4 section 4(a)(2); and

5 (C) \$10,000,000 for the award described
6 in section 4(a)(3).

7 (2) ADMINISTRATION.—In addition to the
8 amounts authorized in paragraph (1), there are au-
9 thorized to be appropriated to the Secretary for each
10 of fiscal years 2007 through 2016 \$2,000,000 for
11 the administrative costs of carrying out this Act.

12 (b) CARRYOVER OF FUNDS.—Funds appropriated for
13 prize awards under this Act shall remain available until
14 expended, and may be transferred, reprogrammed, or ex-
15 pended for other purposes only after the expiration of 10
16 fiscal years after the fiscal year for which the funds were
17 originally appropriated. No provision in this Act permits
18 obligation or payment of funds in violation of section 1341
19 of title 31 of the United States Code (commonly referred
20 to as the Anti-Deficiency Act).

1 **SEC. 9. NONSUBSTITUTION.**

2 The programs created under this Act shall not be
3 considered a substitute for Federal research and develop-
4 ment programs.

Passed the House of Representatives May 10, 2006.

Attest:

Clerk.

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