

**AMERICAN RECOVERY AND REINVESTMENT ACT
OF 2009**

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

TO

EXAMINE THE DEPARTMENT OF ENERGY'S IMPLEMENTATION OF PRO-
GRAMS AUTHORIZED AND FUNDED UNDER THE AMERICAN RECOV-
ERY AND REINVESTMENT ACT OF 2009

MARCH 4, 2010



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AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

THURSDAY, MARCH 4, 2010

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. OK, why don't we get started. Thank you all for being here.

The purpose of this hearing is to focus on the progress that the Department of Energy has made in implementing the Recovery Act in the year that has elapsed since it was passed. This is an important effort, both to create high quality jobs in the near term and also to begin to reverse the course that we've been on of under investing in our country's competitiveness in clean energy technology.

While we all feel the urgency to get these programs moving and to generate jobs, I'm glad to see that there's been some real progress in recent months on that front. It's also important that we be sure these investments are the right investments. So, I look forward to hearing the testimony today on both of those issues.

The scale of the investment that the Department has been asked to manage is very substantial. In many cases, programs were either never funded before or were funded at a level that is a fraction of what was provided in the Recovery Act. This was a particular challenge for State and local officials who faced constrained local budgets even as they tried to scale up their management of new Federal funds, and the reporting and accountability requirements that went with those new Federal funds.

I believe the care that the Department and its partners in the States have exercised in setting up these programs will pay great dividends over the long term. The energy infrastructure needs of the country are so substantial that I think we can only regard these investments as a downpayment. If we can get the market incentives as they should be and provide some of the initial support that's needed, I believe there are substantial private-sector funds ready to be invested in these areas.

We've heard testimony before here in the committee that the scale of potential for investments in the energy sector dwarfs previous investments that were made in the information sector or in

biotechnology. Those are 2 areas where the United States has led the world. So, if we're to similarly lead in clean energy and reap the associated benefits in economic and energy security, it will take a sustained commitment and a urgency of purpose to do that. I think the Recovery Act has had that as one of its purposes, and we're anxious to hear how that's coming and what to expect in the future.

So, let me defer to Senator Murkowski for her comments, and then I'll introduce our witnesses.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman.

Welcome, to all of our witnesses this morning. I appreciate you being here and your expertise in this area.

As many of you know, I did not support the American Recovery and Reinvestment Act last year. During the debate on it I detailed some of the concerns that I had at that time, including those that are related to the energy sector, that it was not timely, targeted, and temporary, as we had hoped, that green jobs, that shovel-ready projects would not materialize as promised, and that unprecedented Federal spending was not the only way to overcome our economic challenges. I had some criticism.

That criticism remains, as recently as just 2 weeks ago, when we came to that first anniversary marker. I think it's fair to say that there's still some pretty wide division over whether the bill is intending what we had hoped it would accomplish.

But, we're not here to debate that. That's a good thing. We're here to review just one part of it, and that is a focus on the Department of Energy.

The DOE received nearly \$37 billion. I think this hearing gives us an opportunity to determine whether those funds are being disbursed in a timely and in an effective manner.

I will have say though, that I have been disappointed, with the Department's record, as we understand that DOE has just spent out just over 7 percent of its funding in the past year. The Web page ProPublica developed this information. You have to look all the way down to the bottom of the page to get to the DOE, because it's in next-to-last place amongst the Federal agencies.

Now, I'm sure we'll hear this morning that it's bureaucratic delays that have hampered spending. To no one's surprise, it appears that much of that delay can be pointed back to those of us here and the decisions made in Congress. The joke that, "Congress does cut the red tape, but it cuts it sideways."

With regard to weatherization, we had a tried-and-true program that already exists within DOE. We haven't seen the splash that we anticipated. Some areas where spending is occurring, of course, have come under fire. There's an article, in this morning's Post, where several of my Democratic colleagues have sided specifically to these wind energy projects and the funds going overseas or to foreign countries.

Researchers have found that 80 percent of the renewable energy grants have been awarded to foreign companies, including nearly 200 million awarded to a bankrupt Australian company that built

a Texas wind farm using turbines made by a Japanese company. It's things like this, of course, that get people agitated, excited, and clearly very emotional about it.

The CBO's estimated spend-out rates, which projected a very low spend-out last year, increases to just 22 percent this fiscal year. I'm also very mindful that the stimulus effectiveness depends not only how much money is spent, but when it's spent. Some of our Nation's best economists have told us, over and over and over, that time is of the essence. They're right. We've seen the cost of last year's stimulus balloon by 75 billion, and I believe that is at least partially because of the slow pace of the expenditures that we see, and maybe more particularly in agencies like DOE.

As we move forward with jobs, agenda packages here in the Congress, unemployment right near 10 percent, we're seeing new legislation that attempts to further create jobs. Here in this committee, this is going to be an interesting debate. We're more than a year into a program that was pitched as capable of getting the economy back on track, but only 7 percent of the timely, targeted, temporary funding given to the Department of Energy has actually been spent.

So, Mr. Chairman, I really appreciate the hearing this morning. I think it comes at a very critical juncture in our discussions. I really do hope that we will hear some good news from folks today, because, before Congress commits to new spending, even greater deficits, we need to make sure that we've learned from our recent experiences in order to make the best possible decisions for our country and for our constituents.

With that, again I thank the witnesses, and I look forward to the opportunity for questions.

The CHAIRMAN. Thank you very much.

Let me just introduce our witnesses briefly.

Matthew Rogers is the senior advisor to the Secretary of Energy for Recovery Act Implementation. We very much welcome Matt here. He's been a witness several times before our committee in the past, and we welcome him back.

Patricia Dalton is the managing director of the Natural Resources and Environment section at the Government Accountability Office.

Thank you for being here.

Michele Nellenbach is director of the Natural Resources Committee with the National Governors Association.

Thank you for being here.

Malcolm Woolf is the director of the Maryland Energy Administration. Also, he is vice chair of the National Association of State Energy Officials, in Annapolis. His location is in Annapolis.

All right. So, why don't we start, and just go across the table there. If each of you could take 5 or 6 minutes and tell us the main points you think we need to understand, that would be most helpful. Then we will, of course, put your entire statements in the record.

Matt, please go right ahead.

**STATEMENT OF MATT ROGERS, SENIOR ADVISOR TO THE
SECRETARY, DEPARTMENT OF ENERGY**

Mr. ROGERS. Thank you very much. Chairman Bingaman, Ranking Member Murkowski, members of the committee, thank you for the opportunity to appear before you today to report on the progress of the American Recovery and Reinvestment Act within the Department of Energy. I'll make my opening remarks brief. I have submitted a more detailed statement for the record.

As this committee knows, the Department of Energy's recovery program focuses both on creating high quality jobs quickly and accelerating the pace of innovation to lay the foundation for long-term economic growth and prosperity. To support this work, Congress entrusted the Department with \$36.7 billion in appropriations. The Recovery Act also directed DOE to work with Treasury to underwrite more than \$5 billion in clean energy tax credits and grants. These funds, combined with cost share and leverage, will support more than \$100 billion in projects.

During the last full recipient reporting period, the October through December 2009 period, DOE Recovery Act programs directly created or saved 16,300 jobs. Beyond those jobs reported in FederalReporting.gov, subcontractors generated more than 4,000 additional jobs and grant recipients reported an additional 12,000 jobs. As spending accelerates this year, we expect that tens of thousands of additional jobs will be created or saved under DOE Recovery Act programs.

DOE has been focused on moving the money out the door quickly to create jobs and spur economic recovery. We have used competitive processes to select exceptional projects. We have increased transparency. We are building a culture of accountability within DOE, based on the mantra, "Accountability Every Day."

DOE's \$36.7 billion in appropriations came in 4 different categories, each with a different time horizon and a different contracting vehicle. DOE received \$7.5 billion in contracts, largely for the Office of Science and the Office of Environmental Management, to accelerate a set of projects, many of which were already underway. Today, we've obligated \$6.8 billion of these funds and outlaid \$1.6 billion.

We also received \$11.2 billion in formula grants for States, counties, cities, and tribes through the Recovery Act. We've obligated \$10.6 billion of these funds, and we are now supporting our partners as they spend these funds through local contracting processes. The State weatherization programs have contracted more than half of their funds and have outlaid more than \$590 million as of this morning.

The more project-based State Energy programs have contracted more the \$770 million of their funds, and we have reimbursed \$64 million for completed projects under the State Energy programs.

The third block of funds includes \$14 billion in competitive grants. Congress asked us to compete these funds to find the very best projects in the country. This required us to work through the funding opportunity, to application review, to merit selection process. These were very highly competitive processes, where we were heavily oversubscribed—5 to 1, on average. So, we were only able to select the best 20 percent of the projects who applied. We've

made over 90 percent of the selections under the competitive grant areas, and we've obligated \$8 billion of these funds to date.

The loan and borrowing authority take the longest to move, because in those contexts we have to underwrite the full value of the project, not just the credit subsidy that shows up in the appropriations. In our loan programs, we've issued more than \$2 billion in conditional loan commitments to renewables, out of more than \$18 billion in total loans that the Department has made in the last year.

In addition, we supported Treasury in selecting 183 projects in 43 States to receive \$2.3 billion in renewable energy manufacturing tax credits, a really important program to build clean-energy, high-technology manufacturing in the United States. We've also evaluated over \$2.6 billion in grants in lieu of tax credits for 393 renewable generation projects that have been finished thus far.

We are ahead of where we expected to be on selections, on obligations, and on job creation. We are on track with where we expected to be in contracting. We are slightly behind where we planned to be on an outlays basis, based on the master plan that we developed at the beginning of this program.

Over the next 6 months, we expect to see an accelerating rate of job creation, contracting, and reimbursements. We are working with more than 5,000 individual recipients now to ensure that each delivers on their commitments to create jobs and meet their project milestones on time and on budget.

As we put people back to work, DOE's Recovery Act programs are making our homes and buildings more energy efficient. We're expanding U.S. high technology, clean-energy manufacturing and generation. We're modernizing our electric grid. We're transforming the transportation sector. We're accelerating the cleanup of legacy cold-war nuclear sites. We're laying the foundation for the United States to take a leadership role in a global clean energy economy.

I thank you for the opportunity to testify today, and I look forward to answering your questions.

[The prepared statement of Mr. Rogers follows:]

PREPARED STATEMENT OF MATT ROGERS, SENIOR ADVISOR TO THE SECRETARY
DEPARTMENT OF ENERGY

Chairman Bingaman, Ranking Member Murkowski, and Members of the Committee, thank you for the opportunity to appear before you today to report on the progress of "The American Recovery and Reinvestment Act" (Recovery Act).

RECOVERY ACT IMPACT

One year after the passage of the Recovery Act, approximately 2 million jobs have been created or saved thanks to the Act's impact on hiring in the private sector, by local and state governments and by non-profits. The Recovery Act's \$787 billion came in three pieces: roughly a third in tax cuts directly to the American people, another third in emergency relief for hard-hit families, businesses, and state governments, and a third in investments in the infrastructure and technology, creating platforms for economic growth.

The Department of Energy's Recovery program focuses on the third leg, accelerating innovation to lay the foundation for long term economic growth. To support this work, Congress entrusted the Department of Energy with \$36.7 billion in appropriations and \$6.5 billion in power marketing administration borrowing authority. The Recovery Act also directed DOE to work with Treasury to provide more than \$5 billion in clean energy manufacturing tax credits and generation tax grants.

These funds combined with private cost share and leverage will support more than \$100 billion in projects.

The Recovery Act investments in energy are putting Americans to work, helping to build a clean energy economy, accelerating energy innovation, and reducing our dependence on oil. During the last full recipient reporting period (Oct-Dec 2009), DOE Recovery Act programs directly created or saved over 16,300 full-time equivalents (FTEs) as reported by recipients. Contractors have reported another 4,000 FTEs have been created or saved at the subcontractor level (not required to report to FederalReporting.Gov) and more still down the supply chain. Meanwhile, Section 1603 programs which provide grants in lieu of tax credits for renewable energy projects are creating a self-reported 12,633 jobs. As spending accelerates this year, we expect that tens of thousands of additional jobs will be created or saved under DOE Recovery Act programs.

As we put people back to work, DOE's Recovery Act is making our homes and buildings more energy efficient, expanding US high technology clean energy manufacturing and generation, modernizing our power infrastructure, transforming the transportation sector, accelerating the clean-up of legacy cold war nuclear sites, and laying the foundation for the next generation of technological and scientific innovation.

Our programs are providing benefits across sectors and across the country. DOE's formula grant selections include over 2,300 state and local governments in all fifty states and territories to receive nearly \$11 billion of Recovery Act funds. Native American tribes in over 575 towns have been selected for nearly \$55 million in energy efficiency conservation block grants and an additional \$27.5 million for a combination of Smart Grid, Weatherization and renewable energy projects. 200 small businesses have received nearly \$1 billion in grants and \$2 billion in loans. Educational institutions in 43 states have been selected for over \$600 million to support 200 projects focused on innovation.

DOE IMPLEMENTATION STATUS

From the first day after the Recovery Act was signed into law, DOE has been focused on moving the money out the door quickly to create jobs and spur economic recovery. We have used competitive processes to select exceptional projects. We have streamlined DOE operating processes across the board. We are providing unprecedented transparency and insist on clear accountability every day. We are partnering with the private sector to make a meaningful down-payment on the nation's clean energy future.

DOE's \$36.7 billion in appropriations came in four different categories each with a different time horizon. DOE received \$7.5 billion in the form of contracts for the expansion and acceleration of Office of Science and the Office of Environmental Management projects. To date, \$6.8 billion of contract funds have been obligated. Through the Recovery Act, we also received \$11.2 billion in formula grants for states, counties, cities, territories, and tribes through the Recovery Act. We have obligated \$10.6 billion of the \$11.2 billion and have accelerated full obligation of these formula awards, using an unprecedented SWAT team process, to enable the recipients to work through their local competitive selection processes quickly. The third block of funds includes \$14 billion in competitive grants. We have obligated \$8 billion of these funds to date. These highly competitive processes were over-subscribed with strong projects, 5:1 on average, presenting us with the challenge and the opportunity to select the best 20%, using over 4,500 reviewers. Finally, the loans and borrowing authority take the longest to move as we finance a large portion of the value of the project in the loan guarantee program and the power marketing administration borrowing programs.

In addition, we are providing support to the Treasury in allocating \$2.3 billion in renewable energy manufacturing tax credits. We have also been continuously reviewing renewable energy generation grant in-lieu of tax credit applications for Treasury, recommending over \$2.5 billion in grants for finished projects thus far.

Working across these funding categories we have made substantial progress over the last year. We are working with more than 3,500 recipients who have been selected to receive over \$31.4 billion in DOE-funded contract and grant funds. We have obligated \$25.7 billion of the \$31.4 billion in funds awarded, and supported Treasury in awarding \$4.9 billion in tax credits and payments in lieu of tax credits. In our loan program, we have issued more than \$2.1 billion in conditional loan commitments. We have paid out \$2.5 billion to recipients of DOE's appropriated ARRA funds, while Treasury has provided recipients an additional \$2.6B in the form of Section 1603 payments in-lieu of tax credits. These funds are being matched with nearly \$25 billion in private capital. We are ahead of where we expected to be on

selections, obligations, and job creation. We are slightly behind where we expected to be on payments based on our plans from last spring.

We plan to announce the remaining contract and grant selections before the end of June. We are now working actively with our more than 3,500 recipients to accelerate costing and ensure each delivers on project goals and commitments, on time and on budget. We are confident that the next six months will be the period of most rapid job creation for Department of Energy Recovery Act programs.

The remainder of this statement provides detail on each energy Recovery Act investment area in turn.

SAVING CONSUMERS MONEY AND IMPROVING THE ENVIRONMENT THROUGH ENERGY EFFICIENCY

Under the Recovery Act, we are making the largest single investment in home energy efficiency in U.S. history. For low-income families that are hit hardest by high utility bills, the Recovery Act provides \$5 billion for the Weatherization Assistance Program, which funds local agencies to perform home energy audits and weatherization services. We are working closely with our partners to deliver this vital program. Each state has made clear performance commitments and we have worked directly with the Governor's office in every state towards a shared plan to reach these performance targets. We have taken steps to address barriers that we have identified, as well as issues raised by GAO and the DOE Inspector General. During January, states significantly increased their spending and the number of homes weatherized under the Recovery Act, moving monthly output to a preliminary estimate of 17,000 units and we are working with the community action agencies towards meeting their full run rate commitments by the end of March. The Department undertook a broad-based restructuring program to address the initial challenges in program implementation. As a result of these efforts, states reported that they weatherized more than 125,000 homes in 2009, including over 25,000 with Recovery Act funds and based on this reporting are on pace to deliver at least 250,000 homes with Recovery Act funds this year. In fact, since September 2009, we have tripled the pace of Recovery Act-funded home weatherization. Still, our goal is to improve further, reaching run rate performance goals by the end of March 2010 and we are moving forward with additional new measures that should increase our pace of weatherization. The Department will remain focused on providing each of the states and local agencies with the resources they need to quickly and effectively implement this program. We expect to weatherize nearly 600,000 homes with Recovery Act funds by March of 2012.

The Recovery Act also includes \$3.1 billion for DOE's State Energy Program and \$300 million to states for energy efficient appliance rebates, showcasing cooperation between federal and state governments. The state energy programs are sponsoring very innovative projects. Ohio is using some of their state energy grant money to increase industrial energy efficiency, helping companies reduce cost and become more competitive in the market. Idaho is improving energy efficiency in 210 K-12 schools across the state, putting money back into school budgets. The state energy programs appear to be ahead of their plan to ensure more than \$1 billion of their \$3.2 billion is contracted by the end of March. All of the states already have their appliance rebate funds and most have completed their program offerings, helping consumers improve appliance efficiency significantly.

The Recovery Act provided \$3.2 billion to fund the Energy Efficiency and Conservation Block Grant program for the first time, which this committee was instrumental in creating. This program will help over 2,300 cities, counties, states, territories and Indian tribes to develop their own efficiency programs, including: building code development, energy audits and retrofits, efficient public lighting and landfill gas capture. Standing up a new program always takes a little more effort—it took a dedicated 125 person SWAT team in the basement of DOE to process all the new EECBG applications, working with recipients directly on the phone to ensure each application met the statutory requirements and to minimize bureaucratic back and forth. This hard work will pay dividends in the coming months, as states and communities bring innovative projects on line. We are particularly excited about the competitive portion of the energy conservation block grant program, known as Retrofit Ramp up. The leading projects under this program will define new approaches to make energy efficiency services available to all Americans at significantly lower cost.

These formula grant programs have created opportunities for innovation in how the Department of Energy works. Our expanded call center has handled almost 10,000 calls from formula grant recipients, guiding people through the process. We now have dedicated account representatives for each state, providing service con-

tinuity. We collaborate with the national weatherization and state energy organizations weekly, building a shared view on performance. Each innovation not only moves this program faster every day, but better positions DOE for long-term base performance as well.

DEVELOPING THE STRONGEST RENEWABLE ENERGY INDUSTRY IN THE WORLD

Recovery Act investments and incentives totaling \$23 billion combined with more than \$40B in private capital are putting us on track to meeting our goal of doubling both renewable electricity generating capacity (excluding conventional hydropower) and advanced energy manufacturing by 2012. Recovery Act programs are also quickly expanding high technology, clean energy manufacturing in the U.S.

We are funding a range of renewable energy generation technologies, including wind, solar, and geothermal. DOE has supported Treasury in implementing the 1603 program, which has provided \$2.6 billion in 1603 payments to 392 renewable energy generation projects across the country. By partnering with private industry, Treasury and DOE have already funded enough new renewable energy projects through these payments to power over one million homes, enough clean energy to power the homes of everyone living in Boston, Seattle, Atlanta, Kansas City, and Cincinnati combined. These projects have already been completed.

DOE has also supported Treasury in awarding \$2.3 billion in tax credits for 183 clean energy manufacturing projects in 43 states under the 48C program. The manufacturing capacity supported by these grants will produce solar panels, wind turbines, geothermal equipment, nuclear plant components, and energy efficient building products, putting the US on track to double our capacity to manufacture these high technology, clean energy components by 2012. These facilities represent some of the premier companies in renewable manufacturing. These projects will generate more than 17,000 jobs. This investment will be matched by as much as \$5.4 billion in private sector funding likely supporting up to 41,000 additional jobs. The interest was extraordinary and the program was oversubscribed by a ratio of more than 3 to 1. The Administration has called on Congress to provide an additional \$5 billion to expand the program. Because there is already a deep pipeline of projects, these funds could be deployed quickly to create jobs and support economic activity.

We have announced more than \$2 billion in conditional commitments to build renewable energy and grid electrification projects in the US under the Recovery Act including Solyndra (CA), Nordic (ID), and Beacon (NY), and Brightsource (CA). These conditional commitments have proven very effective in bringing private capital off the sidelines and into the market at scale. Solyndra, Nordic, and Beacon are all in construction.

We're also investing over \$600 million in grants in the research, development and deployment of renewable energy. For example, \$24 million in Recovery Act funding has gone to three universities (in IL, ME, and SC) around the country to improve wind turbine performance and reliability. The Solar Incubator is providing \$10 million in Recovery Act funds to help 4 companies in North Carolina and California lower the cost and improve performance of promising PV technologies. We are awarding up to \$81 million to 45 geothermal projects in 20 states developing innovative approaches to enhanced geothermal systems, potentially unlocking vast amounts of baseload power.

TRANSFORMING THE TRANSPORTATION SECTOR

The Recovery Act provided \$3.4 billion to help develop the next generation of vehicles and the fueling infrastructure to support these innovative new technologies. This is in addition to \$8.4 billion so far from our Advanced Technology Vehicle Manufacturing loan program outside the Recovery Act. These projects aim to transform the transportation sector by creating competition among electrification, natural gas vehicles, advanced biofuels, hydrogen and improvements in internal combustion engine efficiency.

Over the next six years, we expect to make three new electric vehicle plants—the first ever in the United States—and 30 new battery and other electric-vehicle component manufacturing plants fully operational. We've made investments in battery and component suppliers like A123, Enerdel and Cellgard, as well as manufacturers¹ like Nissan, Tesla, Fisker and Ford to make advanced vehicles in the United States. By 2015, these plants will be expected to have capacity to produce 250,000 electric-drive cars and batteries to power 500,000 plug-in hybrid electric vehicles.

¹Manufacturers Ford, Nissan, Tesla and Fisker are funded by the Advanced Technology Vehicle Manufacturing Program, which is not part of the Recovery Act.

We are also building the infrastructure to support these vehicles, including more than 10,000 charging locations in a dozen cities.

We've selected \$300 million in Recovery Act grants to 25 Clean City coalitions of public and private fleets, of which \$260 million has been obligated to date. These grants significantly expand city- and county-led efforts to reduce petroleum consumption and deploy high-efficiency cars, trucks and buses that run on alternative fuels. The 25 projects support over 9,000 alternative-fuel vehicles, 70 percent of which will run on natural gas, mainly for heavy-duty trucks.

At the same time, Recovery Act investments will support the development and deployment of the next generation of biofuels. Over \$600 million in Recovery Act grants will support 19 pilot, demonstration, and commercial-scale bio-refineries. These facilities will convert biomass into fuels and chemicals that otherwise would be produced from oil, while creating jobs and raising farm incomes in rural communities across the country. Before these investments, the development of an advanced biofuels industry was at a virtual standstill as numerous facilities at the pilot stage had faltered during the economic downturn.

More than \$100 million from the Recovery Act, plus an additional \$87 million in base budget funding, will go to improving the efficiency of heavy-duty trucks and passenger vehicles. With private sector cost-sharing, this will support nearly \$375 million in total investment, positioning the US as a leader in heavy duty fuel efficiency and reducing transportation costs across the country.

INVESTING IN A 21ST-CENTURY GRID INFRASTRUCTURE

Our electrical grid is a critical piece of infrastructure, but today it uses century-old technology. It wastes too much energy, it costs us too much money, and it's too susceptible to outages and blackouts. Just as President Eisenhower's investment in an interstate highway system revolutionized the way Americans travel, our Recovery Act investments in the smart grid and new transmission lines is revolutionizing how we produce, transport and use energy.

The more than \$4 billion in Recovery Act smart grid investments are being matched by more than \$5.5 billion in private sector funding, supporting 132 projects that will reduce electricity costs, increase reliability, and give consumers more choice and control over their energy use. By 2015, we expect a combination of public and private investment to lead to the deployment of 18 million smart meters nationally (more than double the number currently in service). The Recovery Act is also funding the installation of nearly 1,000 sensors on the electric transmission system to improve reliability and security, for the first time providing visibility and control across the entire U.S. transmission system. 200,000 smart transformers and nearly 700 automated substations will allow power companies to replace units before they fail, and respond more effectively to restore service when bad weather knocks down power lines. These are important first steps toward the modernization of our power infrastructure.

SUPPORTING THE GOAL THAT CARBON CAPTURE AND SEQUESTRATION (CCS) CAN BE ECONOMICAL IN 8-10 YEARS

With \$3.4 billion from the Recovery Act, we are making unprecedented investments in carbon capture and sequestration technologies, attracting approximately \$7 billion in private capital. Projects we are supporting are projected to capture more than 10 million tons of CO₂ annually by 2015 and put us on a path to demonstrating that carbon capture and sequestration can be economical by 2020. Realizing the promise of low-carbon electricity from coal requires an economical solution to capturing CO₂. The leading processes today are amine and ammonia-based processes that cost \$60 per ton and have a very significant energy penalty, which has prevented them from reaching widespread commercial implementation. New CO₂ capture technologies, using different solvents, adsorbents and absorbents, hold the promise to significantly reduce the energy penalty, cut capital costs and reduce the cost per ton by more than half. Our innovative grants are funding entirely new approaches such as synthetic enzymes or conversion of CO₂ into valuable fuels or chemicals, that could reduce the cost even more.

CLEANING UP THE LEGACY COLD WAR NUCLEAR SITES

DOE also has the important role of cleaning up sites across the country associated with the legacy of our nation's nuclear weapons program. DOE's Office of Environmental Management has allocated \$6 billion in Recovery Act funding to ongoing cleanup work at 17 sites. The stimulus funding is being used to accelerate cleanup work to reduce the lifecycle cost of EM's cleanup effort. These projects have permanently disposed of over 1,300 cubic meters of transuranic waste and nearly 11,000

cubic meters of low-level waste, and over 400,000 square feet of contaminated facility demolition. The EM program's Recovery Act goal is to help reduce the footprint of land and structures requiring cleanup by 40 percent by 2011.

EM and site prime contractors have obligated approximately \$700M in Recovery Act Small Business contracts. In fiscal year 2009 EM Prime Small Business contractors were awarded about \$396 million which exceeded EM's goal of 4.8 percent (\$288M) of EM Recovery Act funds by achieving 136 percent of the goal. In fiscal year 2010, EM anticipates additional Small Business contracts to both prime contractors and subcontractors.

These projects have already created nearly 8,000 direct jobs as of December 31, 2009 at the prime and sub-contractor level, in communities like Hanford Washington, Savannah River South Carolina and Oak Ridge Tennessee. The Environmental Management projects were among the first to start and more than 90% of the funds have been obligated and almost 25% has been spent.

MAINTAINING U.S. LEADERSHIP IN SCIENCE AND TECHNOLOGY

The Recovery Act is accelerating the pace of scientific and technological innovation in the energy sector, laying the foundation for sustained future economic growth. There is widespread agreement in the economic community that innovation is a primary driver of long-term economic growth and prosperity. Historically, however, energy has been one of the slowest sectors to innovate, taking decades to change. Nevertheless, when it occurs, the economic impact from energy innovation has been significant. Energy innovation in production and in end-use technologies has been a key ingredient in US economic growth for the last century. Energy innovation is essential to address global energy security and climate change concerns on time and on budget. Innovation also drives job creation. Long term, high quality jobs stay in industries where there is a high degree of innovative content.

For instance, the Recovery Act included \$400 million for the Advanced Research Projects Agency—Energy (ARPA-E), modeled after the Defense Department's famed DARPA. DARPA is widely credited for inventing, among other things, the Internet. ARPA-E will fund high-risk, high-reward energy technology research. Not every project will succeed, but those that do have the potential to radically transform our energy system.

Potentially game-changing research funded through ARPA-E so far includes: Grid-scale liquid metal batteries that could cut battery costs by 90% while doubling energy density; Direct solar fuels—photosynthetic organisms that produce hydrocarbons instead of carbohydrates, combining CO₂, sun and water to produce ultra-clean gasoline; and Super-high-efficiency small wind turbines, leveraging advanced aerospace designs and materials to reduce the cost, improve the reliability and expand the range of wind energy. The projects we have funded under the Recovery Act—and the many great projects we have not been able to fund—highlight the opportunity for the United States to accelerate clean energy innovation and take a global leadership position in clean energy industries globally.

The Office of Science has invested \$1.6 billion to advance basic research (e.g. 17 new energy frontier research centers, the world's fastest super computer at Oak Ridge), to expansion science infrastructure (e.g. national synchrotron light source at Brookhaven, a new Continuous Beam facility at TJ lab, new battery user facilities at Argonne) and to increase funding for promising early career scientists. Science is almost 90% obligated and is expected to disburse over 20% of their funds when the next set of data is reported.

The next six months will expect to see an accelerating rate of job creation, contracting, and reimbursements. We are working with more than 5,000 recipients to deliver on their commitments to job creation and meet their agreed project milestones, on time and on budget. Our task remains to knock down barriers to ensure each recipient can perform and to hold our funding partners accountable to deliver on their commitments. We have great projects at every level that are contributing to job creation and economic growth now and laying the foundation for long-term US leadership in these industries.

The CHAIRMAN. Thank you very much.
Ms. Dalton, go right ahead.

**STATEMENT OF PATRICIA A. DALTON, MANAGING DIRECTOR,
NATURAL RESOURCES AND ENVIRONMENT, GOVERNMENT
ACCOUNTABILITY OFFICE**

Ms. DALTON. Thank you, Mr. Chairman, Ranking Member Murkowski, members of the committee.

I'm pleased to be here today to discuss the status of DOE's implementation of programs under the Recovery Act. My statement today is based on 2 recent GAO reports, and will focus on the extent to which DOE has obligated and spent Recovery Act funds and the factors that have affected its ability to select and start Recovery Act projects.

The Recovery Act provided DOE more than \$43 billion, including 6.5 billion in borrowing authority. As of February 28, DOE reported it had obligated \$25.7 billion, or 70 percent of its spending authority; and had reported expenditures of \$2.5 billion, 7 percent of its expenditure authority.

The percentage of Recovery Act funds obligated varied widely across DOE offices. Several program offices had obligated more than 85 percent of the Recovery Act funds, as of February 28, while other program offices had obligated less than a third of their funds. It should be noted that, in some of these cases, awards and obligations were not expected until at least 2010. The percentage of Recovery Act funds spent also varied across DOE offices, but to a lesser extent than the funds obligated. None of the offices reported expenditures of more than a third of their Recovery Act funds, and some reported zero.

The Federal requirements and other factors affected the timing of project selection and starts. In particular, DOE reported that the Davis-Bacon and environmental requirements slowed some project selection and starts, while State officials also reported to us that the National Historic Preservation Act had an impact.

DOE's Weatherization Assistance Program became subject to Davis-Bacon requirements for the first time under the Recovery Act. In general, the States we reviewed used only small percentage of their available Recovery Act funds in 2009. Davis-Bacon requirements contributed to this low spend rate. Many States chose to use funds from their annual appropriation, which were not subject to Davis-Bacon, before beginning using their Recovery Act funds. The Department of Labor issued its wage determinations for residential weatherization workers in early September. Many States also waited for these determinations before beginning to use Recovery Act funds.

DOE officials told us that the timing of certain projects may also be slowed by environmental requirements. DOE has taken steps to mitigate potential delays; nevertheless, they told us that several offices, including the Loan Guarantee and Fossil Energy Offices, will likely have projects that have a significant environmental impact, and therefore will require environmental assessments or impact statements.

Several State officials told us that historic preservation requirements also affect Recovery Act project selection and starts. For example, in Michigan, officials estimated that 90 percent of the home units scheduled to be weatherized were going to need an historic review. In November, they did sign an agreement with the State

Historic Preservation Office that is designed to expedite the review process.

Officials also told us that factors other than Federal requirements have affected the timing of project selection and starts, including the newness of programs, staff capacity, and State and local issues. Because some Recovery Act programs were newly created, in some cases officials needed to establish procedures and provide guidance before implementing projects. Officials from DOE stated that they needed to hire an additional 550 people both permanent and temporary—to carry out Recovery Act project work. Some State officials told us that they experienced heavy workloads as a result of the Recovery Act, which impaired their ability to implement programs. Smaller localities, which are often rural, told us that they faced challenges because of the lack of staff to understand, apply for, and comply with the Recovery Act requirements. Officials from the National Association of Counties have told us that some localities turned down Recovery Act funds to avoid the administrative burdens associated with the Act's reporting requirements. The effects of the economic recession on States' budgets, also had an effect, in that, for example, State hiring freezes and furloughs their ability to implement new programs.

GAO is continuing to review energy programs, including the reporting systems. With respect to recipient reporting, DOE has established a data quality assurance plan to assist in identifying reporting errors, and we are reviewing that system. In addition, we have several ongoing engagements that are looking at other Energy Department programs, including the Loan Guarantee Program, and environmental management for nuclear waste cleanup.

Mr. Chairman, that concludes my statement. I'd be happy to take any questions.

[The prepared statement of Ms. Dalton follows:]

PREPARED STATEMENT OF PATRICIA A. DALTON, MANAGING DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, GOVERNMENT ACCOUNTABILITY OFFICE

WHY GAO DID THIS STUDY

The American Recovery and Reinvestment Act of 2009 (Recovery Act)—initially estimated to cost \$787 billion in spending and tax provisions—aims to promote economic recovery, make investments, and minimize or avoid reductions in state and local government services. The Recovery Act provided the Department of Energy (DOE) more than \$43.2 billion, including \$36.7 billion for projects and activities and \$6.5 billion in borrowing authority, in areas such as energy efficiency and renewable energy, nuclear waste clean-up, and electric grid modernization.

This testimony discusses (1) the extent to which DOE has obligated and spent its Recovery Act funds, and (2) the factors that have affected DOE's ability to select and start Recovery Act projects. In addition, GAO includes information on ongoing work related to DOE Recovery Act programs. This testimony is based on prior work and updated with data from DOE.

RECOVERY ACT

Factors Affecting the Department of Energy's Program Implementation

What GAO Found

As of February 28, 2010, DOE reported it had obligated \$25.7 billion (70 percent) and reported expenditures of \$2.5 billion (7 percent) of the \$36.7 billion it received under the Recovery Act for projects and activities. For context, as of December 31, 2009, DOE reported that it had obligated \$23.2 billion (54 percent) and reported expenditures of \$1.8 billion (4 percent). The percentage of Recovery Act funds obligated varied widely across DOE program offices and ranged from a high of 98 per-

cent in the Energy Information Administration to a low of 1 percent for the Loan Guarantee Program Office. None of DOE's program offices reported expenditures of more than a third of their Recovery Act funds as of February 28, 2010.

Recovery Act Funding, Obligations, and Expenditures (Cumulative) Reported by Department of Energy as of February 28, 2010

Dollars in millions

Recovery Act	Funding	Obligations	Percentage Obligated	Expenditures	Percentage Expended
DOE	\$36,710	\$25,652	70%	\$2,514	7%

Source: GAO analysis of DOE data.

Officials from DOE and states that received Recovery Act funding from DOE cited certain federal requirements that had affected their ability to implement some Recovery Act projects. For example:

- **Davis Bacon Requirements.**—Officials reported that Davis-Bacon requirements had affected the start of projects in the Weatherization Assistance Program because the program had previously been exempt from these requirements.
- **National Environmental Policy Act (NEPA).**—DOE officials told us that NEPA may affect certain projects that are likely to significantly impact the environment, thereby requiring environmental assessments or environmental impact statements.
- **National Historic Preservation Act (NHPA).**—Officials from the Michigan Department of Human Services told us that about 90 percent of the homes scheduled to be weatherized under the Weatherization Assistance Program would need a historic review.

Additionally, DOE and state officials told us that other factors also affected their ability to quickly select or start projects. For example:

- **Newness of programs.**—In some cases, because some Recovery Act programs were newly created, officials needed time to establish procedures and provide guidance before implementing projects.
- **Staff capacity.**—DOE officials also told us that they experienced challenges in hiring new staff to carry out Recovery Act work. Also, District of Columbia officials told us they needed to hire 6 new staff members to oversee and manage the weatherization program.
- **State, local, or tribal issues.**—The economic recession affected some states' budgets, which also affected states' ability to use some Recovery Act funds, such as difficulty providing matching funds. The American Recovery and Reinvestment Act of 2009 (Recovery Act)—initially estimated to cost \$787 billion in spending and tax provisions—aims to promote economic recovery, make investments, and minimize or avoid reductions in state and local government services. The Recovery Act provided the Department of Energy (DOE) more than \$43.2 billion, including \$36.7 billion for projects and activities and \$6.5 billion in borrowing authority, in areas such as energy efficiency and renewable energy, nuclear waste clean-up, and electric grid modernization.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the status of the Department of Energy's (DOE) implementation of programs funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Congress and the administration have fashioned a significant response to what is generally considered to be the nation's most serious economic crisis since the Great Depression. The Recovery Act is intended to promote economic recovery, make investments, and minimize or avoid reductions in state and local government services. Enacted on February 17, 2009, the act was a response to the economic recession at a time when the jobless rate was approaching 8 percent. In early 2009, the Congressional Budget Office estimated that the Recovery Act's combined spending and tax provisions would cost approximately \$787 billion. On January 26, 2010, CBO updated its estimate of the cost of the Recovery Act. It now estimates that the Recovery Act will cost \$75 billion more than originally estimated—or a total of \$862 billion from 2009 through 2019. That amount includes more than \$43.2 billion for DOE efforts in areas such as energy efficiency and renewable energy, nuclear waste cleanup, and electric grid modernization.

The Recovery Act specifies several roles for GAO, including conducting ongoing reviews of selected states' and localities' use of funds made available under the act. We recently completed our fifth review, issued yesterday, which examined a core

group of 16 states, the District of Columbia, and selected localities.¹ We also recently completed a review on the impact of certain federal requirements and other factors on Recovery Act project selection and starts.²

My statement today is based largely on these two prior reviews and updated with data from DOE and focuses on (1) the extent to which DOE has obligated and spent its Recovery Act funds, and (2) the factors that have affected DOE's ability to select and start Recovery Act projects. In addition, we include information on ongoing GAO work on DOE Recovery Act programs. We obtained financial data from DOE on its obligations and expenditures for Recovery Act projects and also asked DOE and 26 other federal agencies—which federal requirements, if any, affected the timing of project selection and start dates, as well as whether any requirements at the state and local levels, or any other factors, affected project selection and start dates. To supplement the federal agencies' responses, we spoke with officials in 16 states and the District of Columbia who are responsible for implementing Recovery Act projects. We are reviewing these 16 states and the District of Columbia for our bi-monthly reviews on Recovery Act implementation. The states selected contain about 65 percent of the U.S. population and are estimated to receive collectively about two-thirds of the intergovernmental federal assistance funds available through the Recovery Act. We selected these states and the District of Columbia on the basis of federal outlay projections; percentage of the U.S. population represented; unemployment rates and changes; and a mix of states' poverty levels, geographic coverage, and representation of both urban and rural areas. We also spoke with representatives from the National Governors Association; the National Association of State Auditors, Comptrollers, and Treasurers; and the National Association of Counties.

Our prior work was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Recovery Act provided DOE more than \$43.2 billion, including \$36.7 billion for projects and activities and \$6.5 billion in borrowing authority.³ Of the \$36.7 billion for projects and activities, almost half—\$16.8 billion—was provided to the Office of Energy Efficiency and Renewable Energy for projects intended to improve energy efficiency, build the domestic renewable energy industry, and restructure the transportation industry to increase global competitiveness. The Recovery Act also provided \$6 billion to the Office of Environmental Management for nuclear waste cleanup projects, \$4.5 billion to the Office of Electricity Delivery and Energy Reliability for electric grid modernization, \$4 billion to the Loan Guarantee Program Office to support loan guarantees for renewable energy and electric power transmission projects, \$3.4 billion to the Office of Fossil Energy for carbon capture and sequestration efforts, and \$2 billion to the Office of Science and the Advanced Research Projects Agency-Energy for advanced energy technology research.

DOE Obligated 70 Percent and Reported Expenditures of 7 Percent of its Recovery Act Funds as of February 28, 2010

As of February 28, 2010, DOE reported that it had obligated \$25.7 billion (70 percent) and reported expenditures of \$2.5 billion (7 percent) of the \$36.7 billion it received under the Recovery Act for projects and activities (see table 1). By comparison, as of December 31, 2009, the department reported it had obligated \$23.2 billion (54 percent) and reported expenditures of \$1.8 billion (4 percent).

¹ GAO, Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability, GAO-10-437 (Washington, D.C.: Mar. 3, 2010).

² GAO, Recovery Act: Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors, GAO-10-383 (Washington, D.C.: Feb. 10, 2010).

³ DOE was initially appropriated \$45.2 billion in the Recovery Act; however, \$2 billion for the Loan Guarantee Program was transferred from DOE's Recovery Act appropriation. As a result, DOE's appropriations under the Recovery Act now total \$43.2 billion.

Table 1: Recovery Act Funding, Obligations, and Expenditures (Cumulative) Reported by Department of Energy as of February 28, 2010

Dollars in millions					
Program Office	Funding	Obligations	Percent Obligated	Expenditures	Percent Expended
Advanced Research Projects Agency - Energy	\$389	\$156	40%	\$2	1%
Departmental Administration	42	26	61	13	31
Energy Efficiency and Renewable Energy	16,764	14,559	87	823	5
Energy Information Administration	8	8	98	0	0
Environmental Management	6,000	5,525	92	1,378	23
Fossil Energy	3,396	961	28	9	0
Loan Guarantee Program Office	3,970	56	1	25	1
Office of Electricity Delivery and Energy Reliability	4,495	2,924	65	20	0
Office of Science	1,636	1,435	88	241	15
Western Area Power Administration	10	3	32	3	26
Total	\$36,710^a	\$25,652	70%	\$2,514	7%

Source: GAO analysis of DOE data

Note: The numbers in this table are rounded to the nearest million.

^aThe Recovery Act also provided DOE with \$6.5 billion in borrowing authority (\$3.25 billion for the Bonneville Power Administration and \$3.25 billion for the Western Area Power Administration), which is not included in this table. DOE was also appropriated \$15 million in the Recovery Act for the Office of Inspector General, which is also not included in this table.

The percentage of Recovery Act funds obligated varied widely across DOE program offices. Several program offices—Energy Efficiency and Renewable Energy, the Energy Information Administration, Environmental Management, and Science—had obligated more than 85 percent of their Recovery Act funds by February 28, 2010, while other program offices—Fossil Energy, the Loan Guarantee Program, and the Western Area Power Administration—had obligated less than a third of their Recovery Act funds by that time.

The percentage of Recovery Act funds spent also varied across DOE program offices, though to a lesser degree than the percentage obligated. None of the program offices reported expenditures of more than a third of their Recovery Act funds as of February 28, 2010. The percentage of funds spent ranged from a high of 31 percent for Departmental Administration to a low of zero percent for the Electricity Delivery and Energy Reliability, Energy Information Administration, and Fossil Energy offices.

Federal Requirements and Other Factors Affected the Timing of Project Selection and Starts

Officials from DOE and states that received Recovery Act funding from DOE cited certain federal requirements and other factors that had affected their ability to implement some Recovery Act projects. In particular, DOE officials reported that Davis-Bacon requirements and the National Environmental Policy Act affected the timing of some project selection and starts, while state officials reported that the National Historic Preservation Act affected their ability to select and start Recovery Act projects. Other factors unrelated to federal requirements—including the newness of programs, staff capacity, and state and local issues—also affected the timing of some projects, according to federal and state officials.

DOE and State Officials Reported that Certain Federal Requirements Affected Project Selection and Starts

Officials from DOE and states that received DOE funding cited certain federal requirements that had affected their ability to select or start some Recovery Act projects. For example:

- Davis-Bacon requirements.⁴ DOE's Weatherization Assistance Program became subject to the Davis-Bacon requirements for the first time under the Recovery Act after having been previously exempt from those requirements.⁵ Thus, the Department of Labor (Labor) had to determine the prevailing wage rates for weatherization workers in each county in the United States. In July 2009, DOE and Labor issued a joint memorandum to Weatherization Assistance Program grantees authorizing them to begin weatherizing homes using Recovery Act funds, provided they paid construction workers at least Labor's wage rates for residential construction, or an appropriate alternative category, and compensated workers for any differences if Labor established a higher local prevailing wage rate for weatherization activities. On September 3, 2009, Labor completed its determinations; later that month, we reported that Davis-Bacon requirements were a reason why some states had not started weatherizing homes.⁶ Specifically, we reported that 7 out of 16 states and the District of Columbia decided to wait to begin weatherizing homes until Labor had determined county-by-county prevailing wage rates for their state. Officials in these states explained that they wanted to avoid having to pay back wages to weatherization workers who started working before the prevailing wage rates were known. In general, the states we reviewed used only a small percentage of their available funds in 2009, mostly because state and local agencies needed time to develop the infrastructures required for managing the significant increase in weatherization funding and for ensuring compliance with Recovery Act requirements, including Davis-Bacon requirements. According to available DOE data, as of December 31, 2009, 30,252 homes had been weatherized with Recovery Act funds, or about 5 percent of the approximately 593,000 total homes that DOE originally planned to weatherize using Recovery Act funds.⁷
- National Environmental Policy Act (NEPA).⁸ DOE officials told us that while NEPA is unlikely to impose a greater burden on Recovery Act projects than on similar projects receiving federal funds, the timing of certain projects may be slowed by these requirements. However, DOE officials reported that the agency had taken steps to expedite the NEPA review process and said that the agency's funding opportunity announcements specified that projects must be sufficiently developed to meet the Recovery Act's timetable for commitment of funds. Nevertheless, DOE officials also told us that several program offices—including Loan Guarantee, Fossil Energy, Electricity Delivery and Energy Reliability, and the Power Marketing Administrations—will likely have projects that significantly impact the environment and will therefore require environmental assessments or environmental impact statements. DOE officials told us that they plan to concurrently complete NEPA reviews with other aspects of the project selection and start process. State officials in California and Mississippi also told us that NEPA had caused delays in DOE Recovery Act projects. For example, California

⁴The Davis-Bacon Act requires that contractors and subcontractors pay workers the locally prevailing wages on most federally funded construction projects, and it imposes several administrative requirements relating to the payment of workers on qualifying projects. The Recovery Act generally applies Davis-Bacon requirements to all Recovery Act-funded projects, requiring contractors and subcontractors to pay all laborers and mechanics at least the prevailing wage rates in the local area where they are employed, as determined by the Secretary of Labor. In addition, contractors are required to pay these workers weekly and submit weekly certified payroll records, generally to the contracting federal agency.

⁵The Recovery Act appropriated \$5 billion for the Weatherization Assistance Program, which DOE is distributing to each of the states, the District of Columbia, and seven territories and Indian tribes. The program seeks to assist low-income families by making such long-term energy efficiency improvements to their homes as installing insulation; sealing leaks; and modernizing heating equipment, air circulation fans, and air conditioning equipment.

⁶GAO, Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed, GAO-09-1016 (Washington, D.C., Sept. 23, 2009).

⁷DOE collects data reported by states and territories on the number of homes weatherized and on state and territory expenditures of funds on a quarterly basis. The data reported by states as of a certain date (such as for the quarter ending December 31, 2009) can change as states finalize figures for homes weatherized and funds spent. DOE originally planned to weatherize 593,000 homes with Recovery Act funding by March 31, 2012. A DOE report issued on February 24, 2010, indicated that 30,252 homes had been weatherized nationwide as of December 31, 2009, though numbers are not yet finalized.

⁸NEPA established national environmental policies and goals to ensure that federal agencies properly consider environmental factors before deciding on a project. Under NEPA, federal agencies evaluate the potential environmental effects of projects they are proposing using an environmental assessment or, if projects may significantly affect the environment, a more detailed environmental impact statement.

officials said that the State Energy Commission must submit some of its Recovery Act projects to DOE for NEPA review because they are not covered by DOE's existing categorical exclusions.⁹ State officials said that such reviews can take up to 6 or more weeks. Both California and Mississippi officials told us that activities that are categorically excluded under NEPA (e.g., road repaving or energyefficient upgrades to existing buildings) still require clearance before the state can award funds. Staff must spend time filling out forms and supplying information to DOE on projects that may qualify for a categorical exclusion.

- National Historic Preservation Act (NHPA).¹⁰ State officials told us that NHPA had also affected DOE Recovery Act project selection and starts.¹¹ Mississippi officials, in particular, cited NHPA's clearance requirements as one of the biggest potential delays to project selection in energy programs. Many of the city- and county-owned facilities that could benefit from the Energy Efficiency and Conservation Block Grant program could be subject to historic preservation requirements, which mandate that projects must be identified within 180 days of award.¹² In part because of this requirement, the state had to adjust program plans and limit the scope of eligible recipients and projects to avoid historic preservation issues. Likewise, officials from the Michigan Department of Human Services told us that NHPA requires that weatherization projects receiving federal funds undergo a state historic preservation review. According to Michigan officials, this requirement means that the State Historic Preservation Office may review every home over 50 years of age if any work is to be conducted, regardless of whether the home is in a historic district or on a national registry. These officials estimated that 90 percent of the homes scheduled to be weatherized would need a historic review. These reviews are a departure from Michigan's previous experience; the State Historic Preservation Office had never considered weatherization work to trigger a review. Furthermore, Michigan officials told us that their State Historic Preservation Office's policy is to review weatherization applications for these homes within 30 days after receiving the application and advise the Michigan Department of Human Services on whether the work can proceed. However, as of October 29, 2009, the State Historic Preservation Office had only two employees, so state officials were concerned that this process could cause a significant delay. To avoid further delays, Michigan officials told us that in November 2009, they signed an agreement with the State Historic Preservation Office that is designed to expedite the review process. They also told us that with the agreement in place, they expect to meet their weatherization goals.
- Buy American provisions.¹³ DOE officials told us that Buy American provisions could cause delays in implementing Recovery Act projects. Officials from other

⁹If an agency determines that activities of a proposed project fall within a category of activities the agency has already determined has no significant environmental impact-called a categorical exclusion-then the agency generally does not need to prepare an environmental assessment or environmental impact statement.

¹⁰NHPA declares that the federal government has a responsibility to expand and accelerate historic preservation programs and activities in order to preserve the nation's historical and cultural foundations. The act requires that for all projects receiving federal funding or a federal permit, federal agencies must take into account the project's effect on any historic site, building, structure, or other object that is or can be listed on the National Historic Register. Under the act and its implementing regulations, the agency must consult with relevant federal, state, and tribal officials with regard to such a project.

¹¹DOE officials told us in January 2010 that they were in the process of developing an agreement with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers to create a manageable framework for streamlining DOE's compliance with NHPA requirements.

¹²The Energy Efficiency and Conservation Block Grants program, administered by DOE, provides funds through competitive and formula grants to units of local and state government and Indian tribes to develop and implement projects to improve energy efficiency and reduce energy use and fossil fuel emissions in their communities. The Recovery Act includes \$3.2 billion for the program.

¹³The Buy American Act generally requires that raw materials and manufactured goods acquired for public use be made or produced in the United States, subject to limited exceptions. Federal agencies may issue waivers for certain projects under specified conditions, for example, if using American-made goods is inconsistent with the public interest or the cost of those goods is unreasonable. Agencies also need not use American-made goods if they are not sufficiently available or of satisfactory quality. The Recovery Act has similar provisions, including one limiting the "unreasonable cost" exception to those instances when inclusion of American-made

federal agencies said those provisions have affected or may affect their ability to select or start some Recovery Act projects. In some cases, those agencies had to develop guidance for compliance with Buy American provisions, including guidance on issuing waivers to recipients that were unable to comply. For example, according to Environmental Protection Agency officials, developing Buy American guidance was particularly challenging because of the need to establish a waiver process for Recovery Act projects. At the local level, officials from the Chicago Housing Authority (CHA) reported that the only security cameras that are compatible with the existing CHA system and City of Chicago police systems are not made in the United States. CHA worked with the Department of Housing and Urban Development to determine how to seek a waiver for this particular project. Moreover, an industry representative told us that the Buy American provisions could interrupt contractors' supply chains, requiring them to find alternate suppliers and sometimes change the design of their projects, which could delay project starts.

DOE and State Officials Reported that Other Factors Have Also Affected the Timing of Project Selection and Starts

Officials from DOE and states also told us that factors other than federal requirements have affected the timing of project selection or starts. For example:

- **Newness of programs.**—Because some Recovery Act programs were newly created, in some cases, officials needed time to establish procedures and provide guidance before implementing projects. In particular, the DOE Inspector General noted that the awards process for the Energy Efficiency and Conservation Block Grant program, newly funded under the Recovery Act, was challenging to implement because there was no existing infrastructure. Hence, Recovery Act funds were not awarded and distributed to recipients in a timely manner.
- **Staff capacity.**—Officials from DOE stated that they would need to hire a total of 550 staff—both permanent and temporary—to carry out Recovery Act-related work. However, several issues affected DOE's ability to staff these federal positions, including the temporary nature and funding of the Recovery Act and limited resources for financial management and oversight. To address those issues, DOE was granted a special direct hire authority as part of the Recovery Act for certain areas and program offices. The authority allowed DOE to expedite the hiring process for various energy efficiency, renewable energy, electricity delivery, and energy reliability programs and helped DOE fill longer term temporary (more than 1 year, but not more than 4 years) and permanent positions. However, according to DOE officials, government-wide temporary appointment authority does not qualify an employee for health benefits, and thus few candidates have been attracted to these temporary positions. According to DOE officials, the Office of Management and Budget recently approved direct-hire authority for DOE, which officials believe will alleviate issues related to health care benefits.

Some officials told us that they experienced heavy workloads as a result of the Recovery Act, which impaired their ability to implement programs. As we reported in December 2009, smaller localities, which are often rural, told us that they faced challenges because of a lack of staff to understand, apply for, and comply with requirements for federal Recovery Act grants.¹⁴ For example, some local government officials reported that they did not employ a staff person to handle grants and therefore did not have the capacity to understand which grants they were eligible for and how to apply for them. In the District of Columbia, Department of the Environment officials explained that weatherization funds had not been spent as quickly as anticipated because officials needed to develop the infrastructure to administer the program. For example, the department needed to hire 6 new staff members to oversee and manage the program. Officials reported that, as of late January 2010, the department had still not hired any of the six new staff required. Officials from the National Association of Counties said that some localities had turned down Recovery Act funding to avoid the administrative burdens associated with the act's numerous reporting requirements.

- **State, Local, or Tribal Issues.**—In our recently issued report on factors affecting the implementation of Recovery Act projects, we noted that the economic recession affected some states' budgets, which, in turn, affected states' ability to use

iron, steel, or other manufactured goods would increase the overall project cost by more than 25 percent.

¹⁴GAO, Recovery Act: Status of States' and Localities' Use of Funds and Efforts to Ensure Accountability, GAO-10-231 (Washington, D.C.: Dec. 10, 2009).

some Recovery Act funds.¹⁵ For example, according to a recent report by DOE's Office of Inspector General, implementation of the Weatherization Assistance Program's Recovery Act efforts was delayed in part by state hiring freezes, problems resolving local budget shortfalls, and state-wide furloughs.¹⁶ State-level budget challenges have affected the implementation of Recovery Act projects. For example, officials from the Department of Defense told us that because states were experiencing difficulties in passing their current-year budgets, some were unable to provide matching funds for certain Army National Guard programs. As a result, the Department of Defense had to revise its Recovery Act project plan to cancel or reduce the number of Army National Guard projects with state matching funds and replace them with other projects that did not require matching funds. Officials from the Department of Housing and Urban Development also told us that project starts in some instances were affected by the need for state and local governments to furlough employees as a result of the economic downturn.

GAO Has Ongoing Work on DOE Recovery Act Programs

In a report issued yesterday, we discussed recipient reporting in DOE's Weatherization Assistance Program.¹⁷ Specifically, we noted that reporting about impacts to energy savings and jobs created and retained at both the state and local agency level is still somewhat limited. Although many local officials that we interviewed for that review have collected data about new hires, none could provide us with data on energy savings. Some states told us they plan to use performance measures developed by DOE, while others have developed their own measures. For example, Florida officials told us they plan to measure energy savings by tracking kilowatts used before and after weatherization, primarily with information from utility companies. In addition, local agencies in some states either collect or plan to collect information about other aspects of program operations. For example, local agencies in both California and Michigan collect data about customer satisfaction. In addition, a local agency in California plans to report about obstacles, while an agency in New York will track and report the number of units on the waiting list.

As we reported, DOE made several outreach efforts to their program recipients to ensure timely reporting. These efforts included e-mail reminders for registration and Webinars that provided guidance on reporting requirements. For the first round of reporting, DOE developed a quality assurance plan to ensure all prime recipients filed quarterly reports, while assisting in identifying errors in reports. The methodology for the quality assurance review included several phases and provided details on the role and responsibilities for DOE officials. According to DOE officials, the data quality assurance plan was also designed to emphasize the avoidance of material omissions and significant reporting errors.

In addition to our reviews of states' and localities' use of Recovery Act funds, GAO is also conducting ongoing work on several DOE efforts that received Recovery Act funding, including the Loan Guarantee Program and the Office of Environmental Management's activities.

As I noted earlier, Congress made nearly \$4 billion in Recovery Act funding available to DOE to support what the agency has estimated will be about \$32 billion in new loan guarantees under its innovative technology loan guarantee program. However, we reported in July 2008 that DOE was not well positioned to manage the loan guarantee program effectively and maintain accountability because it had not completed a number of key management and internal control activities.¹⁸ To improve the implementation of the loan guarantee program and to help mitigate risk to the federal government and American taxpayers, we recommended that, among other things, DOE complete internal loan selection policies and procedures that lay out roles and responsibilities and criteria and requirements for conducting and documenting analyses and decision making, and develop and define performance measures and metrics to monitor and evaluate program efficiency, effectiveness, and outcomes. We are currently engaged in ongoing work to determine the current state of the Loan Guarantee Program and what progress DOE has made since our last report, and we expect to report on that work this summer.

¹⁵ GAO-10-383.

¹⁶ DOE Office of Inspector General, OAS-RA-10-04, Special Report: Progress in Implementing the Department of Energy's Weatherization Assistance Program Under the American Recovery and Reinvestment Act (February 19, 2010).

¹⁷ GAO-10-437.

¹⁸ GAO, Department of Energy: New Loan Guarantee Program Should Complete Activities Necessary for Effective and Accountable Program Management, GAO-08-750 (Washington, D.C., July 7, 2008).

Ongoing work also focuses on DOE's Office of Environmental Management, which also received Recovery Act funding. The Office of Environmental Management oversees cleanup efforts related to decades of nuclear weapons production.¹⁹ The Recovery Act provided DOE with \$6 billion in addition to annual appropriations of \$6 billion for cleanup activities including packaging and disposing of wastes, decontaminating and decommissioning facilities, and removing contamination from soil. DOE has begun work on the majority of its more than 85 Recovery Act projects at 17 sites in 12 states and has spent nearly \$1.4 billion (about 23 percent of its total Recovery Act funding) on these projects. We are currently conducting work to evaluate the implementation of these projects, including the number of jobs that have been created and retained, performance metrics being used to measure progress, DOE's oversight of the work, and any challenges that DOE may be facing. We expect to report on that work this summer.

Mr. Chairman, this completes my prepared statement. We will continue to monitor DOE's use of Recovery Act funds and implementation of programs. I would be happy to respond to any questions you or other Members of the Committee may have at this time.

The CHAIRMAN. Thank you very much.
Ms. Nellenbach, go right ahead.

STATEMENT OF MICHELE NELLENBACH, DIRECTOR, NATURAL RESOURCES COMMITTEE, NATIONAL GOVERNORS ASSOCIATION

Ms. NELLENBACH. Thank you Chairman, Ranking Member Murkowski.

My name is Michele Nellenbach. I'm the director of the Natural Resources Committee for the National Governors Association. On behalf of the Governors, thank you for this opportunity to talk with you about what they've experienced, over the last year, implementing DOE's ARRA-related programs.

In October 2008, the Governor sent a letter to the Hill and also met with then Governor—then President-elect Obama to talk about stimulus funding and what they would like to see in a bill. They had identified 4 items. One was FMAP; the second was infrastructure funding; the third was accountability provisions—the Governors wanted the tough questions about how they're going to spend this money, they wanted the use-it-or-lose-it provisions, they asked for those things in the bill; and finally, they asked for no new red tape. They got 3 of the 4. As you just heard from GAO, I think the fourth is the reason we're here today, is because of some of the obstacles encountered dealing with that red tape.

Now, the Governors do believe most of that is behind us now. So, I'd like to focus, sort of, on what we see as the path forward. There are a few issues that are still out there that we need to address.

DOE is working tirelessly to do NEPA reviews, but they are still taking a—they're still taking some time. We had one State that had its EECBG grant approved in September 2009. They are still waiting for that NEPA determination, and they cannot spend that money until they have it. So, that's still an issue. Again, DOE has got SWAT teams on it now, and they're working tirelessly to get those reviews done. They've established a pretty aggressive agenda for when they want to do that, but it is a concern, moving forward.

One issue that hasn't been talked very much about, and is a very big issue for the Governors, is reporting requirements. The Gov-

¹⁹DOE estimates that the total cost to complete this work will come to about \$300 billion and that it will take several more decades.

ernors don't just oversee the Energy Program, they—we have—\$240 billion worth of the Recovery Act money is going through the States or to the States. That's a lot of money to manage. While we're happy—they're happy to do it, and committed to meeting the goals of the Recovery Act, there is some concern that some recent actions by the Department, if others pile on, it's really going to overwhelm the programs with administrative requirements.

The DOE finalized, this week, a requirement that we—that the States report monthly on the State energy program and the weatherization program. We expect, very soon, to get notification that the same monthly requirements will kick in for EECBG.

So, putting this in the context of State budgets, as you all know, talking to your States, they are not hiring; they are laying off workers; they're furloughing workers; programs that previously were untouchable, like K-12 education, unfortunately are very much touchable now.

So, we need—they need every possible man-hour committed to approving applications and getting that money out the door so that we can be weatherizing homes and doing energy audits and getting people back to work. That's what the Governors want to be doing. Instead, they're going to have to devote more man-hours to sending reports to Washington that are not going to affect the year-long delay we've encountered, they're not going to increase the number of homes we weatherize just because we're reporting more often. So, that's a very big concern for the Governors.

A recent development from last week: As you all know, with each Weatherization Program in a State, there's an approved weatherization plan that indicates the exact number of homes that State believes it has the money and the time and the staff to weatherize. Last week, the Department sent out letters to all the energy officials in the country—in each State, giving them a new target for homes to be weatherized that is above and beyond what is in those plans. Now, I understand from the—Mr. Rogers' written statement that they're still committed to the 600,000 home weatherized goal, which we're really happy to hear about, because that's the goal that we can meet, based on the numbers in those plans. So, we're just concerned about what the expectations are, moving forward, and want to work with the agency to clarify exactly what number the States are supposed to be striving for.

So, those are just a few of the issues that are moving forward. Again, the major issues, the big problems, we think are largely behind us, and States are having a great deal of success. What it's important to remember is that ARRA gave the States until September 10, 2010, to obligate the money. The Governors will meet that number. Then we have until March 2012 to spend the money. So, for all 3 of these programs—EECBG, Weatherization, and SEP—they have plans in place to spend that money over the course of the next 2 years.

We're already seeing a lot of successes. For instance, in the State of Kansas, they have a—they've trained 45 new energy auditors. That's up 15 from a year ago. Most of those auditors have gone out and started their own new businesses. So, that's job growth, right there in Kansas, and its promoting the green energy economy through energy audits.

In New York State, they're on their third request for proposals for \$74 million of its State energy program. They're going to fund energy conservation projects, energy efficiency, and renewable energy programs. We've heard from State after State that they're oversubscribed for a lot of these programs, there's a huge demand for them.

Puerto Rico estimates that 15—5,500 families will benefit from their weatherization program. They have set up a hotline, of sorts—a call center; and in the first month of the call center they set up, 11,000 appointments were scheduled.

So, there are some great things happening in the States. Again, I just would like to close with stating that the Governors are committed to meeting the goals that Congress laid out for them. They have 2 years to do that. They have through March 2012. So, I think you'll see a significant ramp up, and particularly in weatherization, in the coming weeks and months, now that the Davis-Bacon issue has been resolved on that program.

With that, I'll close and would be happy to take any questions. [The prepared statement of Ms. Nellenbach follows:]

PREPARED STATEMENT OF MICHELE NELLENBACH, DIRECTOR, NATURAL RESOURCES COMMITTEE, NATIONAL GOVERNORS ASSOCIATION

Chairman Bingaman, Senator Murkowski and Committee Members, on behalf of the National Governors Association, thank you for the opportunity to testify on implementation of the American Recovery and Reinvestment Act's (ARRA) energy-related provisions.

As you know, ARRA outlined three basic goals: spend the money quickly, create jobs, and maintain full transparency and accountability in spending taxpayer dollars. Governors have worked diligently since passage of the Act on February 17, 2009 to efficiently and transparently manage and spend over \$240 billion in ARRA funds flowing to or through states. While there have been delays at the federal and state levels in fully implementing some of ARRA's energy-related programs, those delays are mostly behind us and states are focused on meeting the Act's September 30, 2010 deadline to obligate and expend all funds by the Department of Energy's (DOE) deadline of spring 2012.

Background

On October 27, 2008, the National Governors Association (NGA) joined with five other associations that represent state and local elected officials to urge congressional leaders to provide countercyclical assistance to state and local governments to help offset declining tax revenues and growing safety net expenditures. NGA asked that Congress provide a two-year increase in the Federal Medical Assistance Percentages, a Medicaid component that would provide immediate fiscal relief to states. NGA also asked that the stimulus package include funding for infrastructure, including funds for airports, highways, transit, clean water, drinking water and schools. While NGA did not take a position on the inclusion of state energy and weatherization programs in the stimulus bill, governors are committed to efficiently using these funds to create jobs, reduce energy costs including for low-income citizens and small businesses and promote renewable energy.

State Energy Program; Weatherization Assistance Program; Energy Efficiency and Conservation Block Grant

ARRA provided significant increases for three energy programs administered by state and local governments: the State Energy Program (SEP) received \$3.1 billion; the Weatherization Assistance Program (WAP) received \$5 billion and the newly-created Energy Efficiency and Conservation Block Grant (EECBG) received \$3.2 billion. In the cases of SEP and WAP, these amounts represented significant increases above the programs' annual appropriations of \$50 million in fiscal year 2009 and \$200 million respectively. EECBG, as a new program, had never received an appropriation nor had any existing infrastructure or regulations to guide its implementation.

ARRA also continued several existing program requirements and imposed new restrictions on the programs. For example, ARRA continued requirements that the programs comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Acts (NHPA); laws requiring sometimes lengthy processes to ensure the projects have a minimal environmental impact and protect historic buildings. In addition, although SEP and WAP had always been exempt from Davis Bacon prevailing wage requirements and Buy American procurement provisions, ARRA required recipients of SEP, WAP and EECBG funds to comply with both provisions. These new and existing requirements, especially when combined with unprecedented levels of funding and ARRA's objectives of accountability and transparency, required the Department of Energy (DOE) to establish new program guidelines before states could fully implement the programs.

Federal Delays

In December 2009, NGA sent Secretary Chu a letter along with its colleagues in the other "Big 7" associations (the National Conference of State Legislatures, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the Council of State Government and the International City Managers Association) articulating frustration with the slowness in which federal guidance was issued. This frustration was subsequently underscored by both the Government Accountability Office and DOE's own Inspector General (OIG) in reports detailing some of the obstacles the Department encountered in 2009. The OIG summed up the situation by stating ". . . as straight forward as [the Weatherization Assistance Program] may have seemed and despite the best efforts of the Department, any program with so many moving parts was extraordinarily difficult to synchronize."

The following paragraphs outline federal obstacles identified by states and articulated by GAO and OIG as having slowed spending for the SEP, WAP and EECBG programs.

NEPA/Historic Preservation: Despite having experience with NEPA and the NHPA, ARRA's significant increase in funding for SEP and WAP generated significantly more projects subject to NEPA and NHPA review. In hindsight, increasing the capacity of the NEPA and historic preservation processes would have helped avoid delays caused by the sheer volume of projects subject to review. We very much appreciate that DOE has developed a model programmatic agreement for states to use that will speed historic preservation reviews, but note that the model was just released in February of this year. In contrast, NEPA reviews continue to be a problem. For instance, DOE is still conducting its NEPA review for one state's EECBG plan that was approved in September 2009. Until the NEPA review is completed, the state cannot use its EECBG funds.

Davis Bacon—While the Secretaries of Energy and Labor issued a joint memorandum in July 2009 encouraging recipients to spend the money while the Department of Labor conducted the wage survey necessary to determine the prevailing wage for weatherization projects, many states did not proceed with awarding grants out of fear of future liability. States were concerned they would have to later divert funds from one project to retroactively pay workers on another project that were unintentionally paid less than the prevailing wage or would have to take money away from workers who were paid more than the contractually-mandated prevailing wage.

While the new wage determination is now in place for the WAP, DOE just received final word from the Department of Labor stating that this same wage rate cannot be used for residential projects funded through EECBG and SEP. This delay, through no fault of DOE, tied up millions of dollars from these programs.

Inconsistent messages: DOE encouraged states to establish loan loss reserves, a credit enhancement mechanism through SEP and EECBG. However, it has recently come to light that such credit enhancements may be disallowed under an OMB circular. Several states are holding funding until this issue is resolved.

Reporting

Since December, communication between DOE, NGA and the other Big 7 organizations has improved. Representatives of the seven associations now have weekly calls with the department to review issues and receive updates. However, there is one remaining issue over which the Governors are at odds with the department: DOE's new monthly reporting requirements.

While states share the DOE's interest in tracking spending and job creation, the additional reporting sought by the department will do nothing to speed the expenditure of funds or hasten the creation of jobs through these programs. States have made it clear that from a capacity standpoint, their personnel are already fully dedicated to implementing ARRA programs and meeting quarterly reporting requirements. Any additional requirements or responsibilities will diminish the amount of

time state officials can spend implementing the programs and meeting existing requirements.

States were particularly dismayed that OMB gave DOE emergency information collection authority for the SEP and WAP programs and required that DOE seek public comment only on how to implement the reporting authority and whether to proceed with monthly reporting for the EECEBG program. I have attached the comments submitted by the NGA, the Council of State Governments and the National Conference of State Legislators expressing our concerns with the monthly reporting requirements, and ask that the letter be included in the hearing record.

NGA maintains that the quarterly reports DOE already receives and the OMB jobs reporting guidance issued on December 18, 2009 are sufficient to meet federal data collection needs, and that DOE's additional job counting requirements are inconsistent with existing job calculations. While OMB requires all recipients report on full time equivalent (FTE) jobs created by ARRA funding, DOE will also now require the collection of non-federally funded FTEs. NGA believes this invites criticism that recipients are using subjective calculations to 'inflate the numbers' to make ARRA look better. One of OMB's goals with its new guidance was to move away from subjective criteria to improve the job calculation. As noted by OMB in its guidance, "Previous guidance required recipients to make a subjective judgment on whether a given job would have existed were it not for the Recovery Act. The updated guidance eliminates this subjective assessment and defines jobs created or retained as those funded in the quarter by the Recovery Act."

Further, DOE has added to its requirement that states report quarterly on more than 100 SEP metrics, a requirement that states report monthly on over 40 metrics. States are awaiting a final determination as to whether similar reporting requirements will be placed on EECEBG.

Even if there is some value in having the information the Department is seeking on a monthly basis, NGA disagrees that the value of that information exceeds the level of burden it places on state and local recipients. States have designed new computer programs and systems to automate the unprecedented reporting requirements of ARRA. If DOE proceeds with its proposals for new data points on a monthly timeframe, state systems will have to be reprogrammed or changed increasing the initial burden of the requirements beyond what DOE has projected.

More importantly, DOE's proposed requirements must be viewed as part of the comprehensive reporting process required by ARRA. Over half of the states are central reporting states for Section 1512 reporting purposes, meaning that reports flow through a central system with its own level of verification and validation. Adding reporting requirements on recipients therefore translates into additional hours at each level of government responsible for collecting information. These additional reporting requirements were not included in the states' original estimates of personnel costs which will now have to be recalculated potentially affecting overall grant amounts.

Governors are very concerned that other departments will follow DOE's lead and institute their own monthly reporting requirements. For states charged with administering more than \$240 billion worth of recovery funding on thousands of projects, any further reporting requirements threaten to quickly overwhelm recipients and slow implementation.

Fiscal Condition of the States

A final critical factor in the expediency with which funds are being spent is capacity and the financial crisis affecting nearly all state and local governments. According to a fiscal survey conducted by NGA with the National Association of State Budget Officers in February, states experienced historic drops in revenues in fiscal years 2009 and 2010, which resulted in a 3.4 percent decline in general fund spending for fiscal 2009 and a 5.4 percent decline in fiscal 2010. Moreover, between now and the end of fiscal 1012, state balanced budget requirements will force states to close budget gaps in excess of \$136 billion. These gaps translate into spending cuts, hiring freezes and furloughs that hinder the ability of states to implement new programs or administer the explosive growth in programs like SEP and WAP. As the OIG noted:

Ironically, given the anticipated stimulus effect of the program, economic problems in many states adversely impacted their ability to ensure that weatherization activities were performed. State hiring freezes, problems with resolving significant local budget shortfalls, and state-wide planned furloughs delayed various aspects of the program and contributed to problems with meeting spending and home weatherization targets.

While the OIG was speaking of the WAP program, its comments could just as easily be applied to the SEP and to a lesser extent, the EECEBG, which had to be created from the ground-up. ARRA itself did not provide administrative funding for the states. The Weatherization program does authorize states to use 5% for administrative expenses and EECEBG and SEP authorize the use of 10%, but most state hiring-freezes apply across the board, making it extremely difficult for states and local governments to rapidly increase capacity to the level proportionate with the amount of funding provided.

State Implementation

Despite federal delays and state and local fiscal constraints, states are focused on using ARRA money to create jobs and promote energy conservation. Governors believe that most of the obstacles to implementation are now behind us and are confident states can fully and efficiently spend SEP, WAP and EECEBG funds. Here are just a few examples of the successes Governors are having throughout the country with their energy programs:

1. The State of Minnesota typically provides about 4,000 Minnesota households per year with weatherization services, but with ARRA the state expects to weatherize 17,000 homes by March 2012. Minnesota estimates that the enhanced weatherization program has created over 340 new jobs through December 31, 2009.

2. OH was one of the few states that proceeded with weatherization projects without having the final wage determination from DOL and as a result, has weatherized 7,289 homes and created job activity equivalent to 2,485 FTE jobs. DOE estimates that for every \$1 invested in OH's weatherization program returns \$2.73 to the household and society. Further, since January 2009, OH has trained over 350 weatherization workers, 100 inspectors, 130 existing heating contractors and completed 40 inspector and 10 heat tech re-certifications.

3. California has obligated \$195.4 million of its \$226 million SEP grant, including \$25 million for a low interest loan program that is currently oversubscribed and \$20 million for green jobs workforce training through the state. The state expects to begin in April or May of this year a clean energy business loan program that would use up the remainder of its grant.

4. Pennsylvania also saw the infusion of ARRA money as a prime opportunity to update and reform its program establishing new standards and monitoring requirements for weatherization work. The state also hired eight new program monitors to ensure the quality of weatherization activities. While much of the work in Pennsylvania was delayed by protracted budget negotiations, weatherization efforts took off in November and December. The state has already met its goal of weatherizing 1,500 homes per month.

5. Michigan's State Energy Program's funding opportunities are oversubscribed by a range from 2:1 to 10:1. Among the projects Michigan has funded is \$15.5 million in grants to support Clean Energy Advanced Manufacturing of renewable energy systems and components in Michigan and the installation of anemometers to assist in the collection of data to support wind development in the state. Michigan plans to use \$10 million for its revolving loan program but is awaiting final DOE determination regarding the loan loss reserve issue.

6. Michigan expects to have 100% of its EECEBG funds under contract by March 2012. Projects funded through EECEBG will include a mobile recycle center program and tire and electronic recycling collections in Montcalm County; conducting building audits and retrofits and developing energy conservation strategies for several towns.

7. North Carolina used some of its ARRA SEP money to provide technical assistance to applicants prior to the issuance of its EECEBG RFP. The Energy Office provided nearly 300 local governments and education units with strategic energy plans. The state will soon issue an RFP for the SEP program, following on one already done for the EECEBG program, providing funds to its Main Street Programs which fund preliminary and detailed energy surveys of private businesses. Grants are provided on a dollar-for-dollar match.

8. North Carolina, like several other states, also saw the infusion of ARRA money as an opportunity to update its weatherization program to ensure timely and efficient expenditure of federal funds. In particular, NC, through its community colleges, redesigned its training programs for both local nonprofits and vendors.

9. The State of Kentucky has established the Green Bank of Kentucky Revolving Loan Program to promote energy efficiency in state buildings with its first loan going to the Kentucky Department of Education (KDE). KDE will use the

loan to make improvements and implement Energy Conservation Measures (ECM) for a total savings of \$2.15 million over the life of the project.

10. Beginning in June, Kentucky will begin its Kentucky Home Performance program leveraging ARRA funds at a 3:1 ratio with private capital to make loans for home energy retrofits. The state hopes to make available \$20 million in loans.

11. The State of Mississippi has weatherized over 1,500 homes using ARRA funding and anticipates weatherizing 5,468 homes by March 2012.

12. The State of Nevada will use \$7.9 million of its SEP grant for energy efficiency and renewable energy projects in state buildings and \$10 million of its grant to provide energy efficient lighting in each of Nevada's 17 school districts.

13. In Oklahoma, the Governor has committed \$11million from the state's SEP funding for compressed natural gas vehicle and infrastructure development.

14. Pennsylvania has allocated \$10 million from its SEP grant for the deployment of innovative alternative and renewable energy generation, efficiency and demand side reduction projects. Another \$12 million of its SEP grant will fund a competitive grant program for combine heat and power projects.

Conclusion

Thank you again for the opportunity to talk with the Committee regarding state implementation of DOE's ARRA-funded energy programs. Governors are committed to the successful implementation of these programs over the next two years and are optimistic about their potential to create jobs and energy savings.

The CHAIRMAN. Thank you very much for your testimony.
Mr. Woolf, go right ahead.

STATEMENT OF MALCOLM WOOLF, DIRECTOR, MARYLAND ENERGY ADMINISTRATION, AND VICE CHAIR, NATIONAL ASSOCIATION OF STATE ENERGY OFFICIALS, ANNAPOLIS, MD

Mr. WOOLF. Thank you, Mr. Chairman.

My name is Malcolm Woolf. I am appearing today on behalf of the National Association of State Energy Officials. I'm vice chair of NASEO, as well as serving as—on behalf of Governor O'Malley as director of the Maryland Energy Administration.

From NASEO's perspective, the energy portion of the stimulus funds has been a success. Clean energy investments are being made, in every State, that address the Nation's short-term needs to boost job creation with our long-term needs to reduce household bills, promote energy independence, and preserve our environment.

I have 3 messages that I'd like to share with the committee today:

First, over half of the State Energy program funds have already been committed—over \$1.8 billion—which enables the companies to hire workers, purchase new products, even though that money has not yet been spent, by the way that the Federal Government and DOE tracks it. So, real jobs are being created today, even if it's not showing up in GAO's numbers yet.

Second, the initial delays have been largely overcome.

Third, the ARRA energy investments are beginning to pay significant dividends.

Let me briefly elaborate on each of these issues:

First, a survey of NASEO members last week indicated that well over one-half, 1.8 billion, of the SEP funds are actually committed and approximately \$777 million is actually under contract. This is critically important because, unlike other programs, States generally pay for energy retrofits or renewable installations only after the work has been satisfactorily performed. However, businesses hire new workers and purchase extra supplies many months ear-

lier, when the contracts are awarded. In other words, to evaluate how well stimulus is doing in creating new jobs, it's more important to look at the pipeline of projects and the work that's actually committed than it is to look at the money actually being spent, because the money isn't spent until all the work has been completed.

Moreover, States are leveraging the Federal funds to attract significant additional resources toward projects, a fact that's ignored under Federal guidelines for calculating job creation. In addition to the SEP program, States have made considerable progress in implementing the other ARRA programs. Spending under the EECBG program, which—over 2,000 grant recipients—is accelerating in accordance with the statutorily required local government plans. The ENERGY STAR Appliance Rebate Program has been very popular with consumers and retailers alike; in many States, it's oversubscribed. Spending should generally be completed by the first half of 2010. In addition, spending for weatherization funds has accelerated significantly in recent years—in recent months—excuse me—despite the initial delays caused by Davis-Bacon. We're confident that the national target of 600,000 weatherized homes by March 2012 will be achieved.

Progress under ARRA has certainly been slower than anyone would've hoped. Much of the initial delays were caused by the need of DOE and the States to ramp up and to comply with a host of newly applicable requirements. For example, the NEPA statute for States to look for shovel-ready projects that literally didn't involve shovels because physical construction would take too long and trigger the lengthy NEPA review. A year later, DOE has now issued over 5,000 NEPA determinations, which equates to \$1.8 billion of spending.

ARRA has also applied Davis-Bacon to the State weatherization activities for the first time. We had to wait for the establishment of wage-class rates from the Department of Labor, which didn't occur until September 2009. Contracts were issued immediately thereafter, and the work has ramped up dramatically as a result. We're still waiting for wage determinations in 5 States. In addition, we understand that the Department of Labor recently declined to allow the wage rates for residential energy efficiency retrofits under the Weatherization Program to be applied to the exact same activities under the EECBG or SEP programs. With approximately \$800 million in residential energy efficiency retrofits planned in the EECBG and SEP programs, we need a rapid resolution to that problem. There's no reason why a contractor doing energy retrofits in a low-income home on Monday doesn't get paid the same wage rate if they're doing it in a private home on Wednesday.

I've heard it said that "statistics lie, but stories tell the truth." I've included, in my written testimony, stories from the States represented on the committee showing how the clean energy investments are paying dividends in your State. In Maryland, I could share stories about the over 1300 low-income residents who are having their apartments retrofitted to reduce their bills or the roughly 1,000 homeowners who are trying to take control of their own energy future by installing solar, geothermal, or even backyard wind systems in their homes.

But, the one story that I'd like to highlight today is our innovative effort to tackle one of the fundamental barriers preventing further investment in clean energy by homeowners, and that's the up-front cost. We—the emPOWER Financing Initiative in Maryland seeks to leverage the public money from stimulus with private capitol to provide homeowners low-cost loans voluntarily secured through their property. Both Annapolis and Montgomery County have enacted local enabling jurisdiction, and we should be issuing loans shortly.

In sum, the ARRA clean energy investments are working to promote—are working to create jobs and reduce household bills in the short run, as well promote American energy independence, economic competitiveness, and the environment in the long run.

I thank you for the opportunity to share our experiences. I look forward to your questions.

[The prepared statement of Mr. Woolf follows:]

PREPARED STATEMENT OF MALCOLM WOOLF, DIRECTOR, MARYLAND ENERGY ADMINISTRATION AND VICE-CHAIR, NATIONAL ASSOCIATION OF STATE ENERGY OFFICIALS, ANNAPOLIS, MD

Mr. Chairman, my name is Malcolm Woolf and I am appearing today on behalf of the National Association of State Energy Officials (NASEO). I am Vice-Chair of NASEO and the Director of the Maryland Energy Administration. I am also pleased to be here today alongside the National Governors Association, where I previously served as the Staff Director of the Natural Resources Committee. I also previously worked as a staff counsel for the Senate Environment and Public Works Committee.

NASEO represents the energy offices in the states, territories and the District of Columbia. We are focused on a balanced national energy policy. At the present time, the Association is focused on working with the states in ensuring that the energy portion of the stimulus funds directed to state activities is effectively distributed.

The short answer is that the energy portion of the stimulus funds operated by the state governments has been a success. Clean energy investments are being made in every state that are creating jobs, reducing household bills and promoting renewable power sources to accelerate our energy independence. We are seeing a significant ramp-up in spending across the United States and we are certainly observing a flood of innovative activities by state and local governments.

During NASEO's recent winter meeting here in Washington, D.C., I discussed with my colleagues a wide variety of creative solutions being implemented by my fellow energy directors. The dynamism and progress was palpable. In my own state of Maryland, we have instituted energy programs in all sectors of the economy that are retaining and producing jobs.

Today, I will focus on describing our activities under the State Energy Program (SEP) and the Energy Efficiency and Conservation Block Grant (EECBG). I will also discuss the Weatherization Assistance Program (WAP) and the Energy Star Appliance Rebate Program. SEP received \$3.1 billion under ARRA, EECBG received \$3.2 billion under ARRA, WAP received \$5 billion under ARRA and the Appliance Rebate Program received \$300 million under ARRA.

SEP and WAP have been funded since the 1970s and have a strong track record of success. ARRA funds were added to base funding with an existing infrastructure. Congress was wise to build on existing programs and existing authorizations. EECBG was authorized in the Energy Independence and Security Act of 2007 (EISA) and the Appliance Program was authorized in the Energy Policy Act of 2005 (EPACT 2005). Neither of these programs received funding until ARRA was passed.

There is no doubt that the ramp-up of existing programs and the implementation of new programs has been a challenge, both at the federal and state levels. The federal government has been adding and training new employees. The state governments are suffering through the worst cutbacks since the Great Depression, which has led to difficulties, but we are adding energy jobs and persevering to effectively invest the federal funds.

OVER HALF OF SEP FUNDS ARE ALREADY COMMITTED, WHICH ENABLES COMPANIES TO HIRE EMPLOYEES AND BEGIN WORK LONG BEFORE FUNDS ARE FORMALLY "SPENT"

In the case of SEP and EECBG, the present reporting mechanisms under ARRA do not reflect the whole picture. With respect to SEP, our recent survey from last week indicates that well over one-half (\$1.8b. +) of the SEP funds are committed (grantees selected and awards made) and approximately \$777 million is actually under contract. This is very important, because the actual rate of "costing" or federal spending does not accurately reflect the jobs created or the impact on the economy. I should also note that DOE NEPA reviews have been completed for \$1.86 billion in projects.

For illustrative purposes, the vast majority of the states utilize private sector companies to conduct the energy efficiency activities. In the case of an energy service company (ESCO) that has received a contract to undertake energy efficiency upgrades in a school building, the contract generally provides that payments are not made until the work is actually completed or milestones under the contract are satisfied. In general, the ESCO begins hiring upon contract execution and conducts the work. The economy is directly and indirectly impacted. However, the spending or "costing" (in federal parlance) does not occur until the work is completed, the state is satisfied that the work is done properly and then the payment is made. Payments are not generally made up-front in order to protect the public against waste, fraud and abuse. Our ability to enforce the terms of these agreements are greatly enhanced if the state is holding the money, not the contractor. So, while the "costing" figure is low, the work conducted and jobs created is accelerating. We will not waste federal or state dollars by changing these contract terms. However, businesses can add employees and receive financing once the binding contracts are executed, with appropriate performance guarantees.

The state energy director in Arizona recently reflected on this example, when he described being in his office one day in January when two contractors appeared looking at lighting and examining the facility in great detail—they were hired by the state's contractor—and they were doing a technical energy audit as the precursor to implementing the energy efficiency measures. The state had not yet paid them, thus the federal money was not yet "costed" but the work was surely being done and these individuals were surely being paid.

Moreover, the federal tally of jobs created does not reflect the substantial leverage states are achieving with excellent program design. In the case of state and local government building retrofits, states typically obtain 4-to-1 private capital leverage for projects. The federal guidelines for jobs created does not allow for the counting of any of the jobs directly created by this leverage. Given states' use of at least one third of SEP funding for these types of retrofits the jobs count provided by DOE is far lower than reality.

Spending of WAP funds has accelerated this quarter, despite the delays caused by Davis-Bacon compliance. The National Association of State Community Service Programs (NASCS) and the National Community Action Foundation (NCAF) have been working closely with DOE to accelerate program delivery. We are confident that the target of 600,000 weatherized homes by March of 2012 will be achieved.

For example, in New York the WAP program will dramatically exceed its goal by weatherizing 15,000 low-income houses and apartments in 2010, with an ultimate goal of 45,000 units by March of 2012. 550 housing units have now been completed and more than 17,400 units are in process. As of December 31, 2009, 226 jobs were directly created with many more subcontractor jobs and more than 720 people have been trained. In New York, \$60 million from ARRA has been targeted for multi-family dwellings.

In Arizona, 110 homes received weatherization services in September and October 2009 with ARRA funds and an additional 369 houses were weatherized with regular appropriated dollars (an increase of 50% above normal rates).

EECBG funds have been provided to well over 2000 cities, towns and tribes, many of which have not operated energy programs previously. In addition, the authorizing legislation also requires the development of an energy strategy. We have been impressed with the types of projects that are being implemented. The states are also tasked to work with the smaller communities directly. This has led to more coordinated energy programs and the use of "best practices." We are also working closely with the U.S. Conference of Mayors, National League of Cities and the National Association of Counties to share information and assist the local and state governments.

The State Energy Efficient Appliance Rebate Program (SEEARP), totaling \$300 million, is being rolled out across the country, generally in the first two quarters of 2010. The states are working with retailers to identify target time frames for pro-

gram initiation, e.g., President's Day sales or Earth Day. The program is over-subscribed and has had an immediate impact. The DOE Energy Savers web site has updated information (www.energysavers.gov/rebates).

We are also trying to use these funds to transform energy markets and produce long-term, sustainable jobs. Thus, it is critical to plan our programs so that projects are conducted over time rather than over 1-3 months. This will help more effectively train workers, allow the demand to increase and allow a "green" workforce to develop. SEP ARRA funds are leveraging almost an additional \$5 billion in investments, beyond the ARRA dollars.

INITIAL DELAYS ARE NOW LARGELY OVERCOME

The most significant problems in ramping-up these programs have simply been in the processing of the paperwork and the need for federal, state and local employees to gear-up. This was an enormous job. SEP went from \$50 million to \$3.1 billion (though state-administered funding was in the hundreds of millions). WAP went from a DOE funding level of \$450 million (though much more when considering other sources of funds) to \$5 billion. EECBG went from \$0 to \$3.2 billion, with over 2,300 direct grantees. The Appliance Rebates went from \$0 to \$300 million.

With that said, the work completed thus far has been extraordinary. While there are, and there will be, examples of problems that are slowing us down, the results have been very positive. While there have been frustrations, the federal, state and local governments are working together—we are sharing successful approaches and looking at ways to streamline the systems.

To step up to the challenge, NASEO hired on a part-time basis (with DOE support), 7 former state energy officials to help coordinate on a regional basis to ensure that every time a problem was solved we would not have to solve that exact problem again. DOE has also assembled a remarkable team. Matt Rogers has been extremely helpful in moving the ball forward. Cathy Zoi, as the Assistant Secretary for Energy Efficiency and Renewable Energy, has been tremendously accessible and moved quickly to find creative solutions. Gil Sperling first and now Claire Johnson, as the heads of the Office of Weatherization and Intergovernmental Programs (managing SEP, WAP and EECBG), and their staff, have been critical in addressing problems. Scott Blake Harris, the DOE General Counsel, recommended holding monthly calls with the state energy officials and the appropriate legal officials in the states to address problems. These calls have produced positive results. General Counsel Harris has also imposed a 48-hour rule—he attempts to solve problems in 48 hours. They have also set up a hotline (gchotline@hq.doe.gov) to respond to state and local legal problems. Sky Gallegos, the Principal Deputy Assistant Secretary for Congressional and Intergovernmental Affairs, has also been a key problem-solver for the Department. The National Energy Technology Laboratory (NETL) and the Golden Field Office (GO) are the key procurement arms for the Energy Efficiency and Renewable Energy Division (EERE) and they have been staffing up and improving their response times. Have there been issues—absolutely. Do we wish that problems were solved earlier—absolutely. However, we all recognize that the personnel are trying hard to get the job done and are more rapidly processing the paperwork.

The greatest burdens have been in five areas: 1) general ramp-up issues; 2) the National Environmental Policy Act (NEPA); 3) Davis-Bacon; 4) Buy-American; and 5) Historic Preservation. In each case, spending has been delayed but the laws are being complied with and the programs are being implemented. DOE's efforts to address these issues resulted in the issuance of multiple guidance documents by the Department in November and December 2009. With this guidance in hand, states were then able to rapidly move funds to grantees. This process is accelerating.

Ramp-up issues:—DOE has been faced with quickly building the capacity to manage massive new responsibilities. In addition to huge paperwork increases, DOE also needed to hire and train new personnel. The rapid expansion at DOE has led to some inconsistent decisions where one DOE program manager approves a state program while the identical program is rejected by another DOE official.

To minimize the risk of waste, fraud or abuse, states also have detailed procurement processes that hindered rapid ramp-up. In Maryland, for example, any contract over \$200,000 goes before a three member Public Works Commission, consisting of the Governor, Comptroller and Treasurer. While such procurement procedures take time, they help ensure that taxpayers receive the maximum value for their dollar.

NEPA—NEPA posed a variety of challenges. First was simple logistics—there were simply not enough trained DOE personnel to evaluate these projects and programs. DOE has acted on over 5,000 NEPA actions, though there are thousands more.

Second, NEPA forced states to look for “shovel-ready” projects that didn’t involve shovels, since physical construction would likely trigger a lengthy NEPA review process. Maryland, for example, submitted its SEP application in June 2009 with programs designed to qualify for so-called “Categorical Exclusions” under NEPA. In early November 2009, DOE created “templates” for SEP and EECBG to make it easier for state and local governments to get “Categorical Exclusions.” Once we revised our application to fit the new DOE templates, DOE finally approved Maryland’s categorical exclusions in January 2010. For example, NEPA reviews for solar activities in Tennessee has slowed spending in that state. Nationwide, NEPA determinations have been completed on over \$1.8 billion of SEP projects.

Davis-Bacon—ARRA applied the Davis-Bacon statute to state energy activities for the very first time, creating a series of issues. In the WAP program we had to wait for the establishment of the wage rate for WAP workers by the Department of Labor before issuing contracts for WAP work. This wage rate was not established until September 2009, after the survey was completed in late August. Contracts were issued within a couple of months and work has ramped-up.

In the recent IG report (OAS-RA-10-04) regarding the WAP program, the IG suggests that the states could have initiated these programs without knowing the wage rates. Unfortunately, the DOE IG simply has a lack of knowledge about these programs. If the preliminary wage rate was too high, does the IG suggest that we should get the money back from the employees? In the case of Ohio, where they did move more aggressively, the Department of Labor essentially reprimanded the state for moving too quickly. Wage determinations are still required for 5 states. In addition, we are still awaiting a determination by the Department of Labor that the WAP wage rates for residential energy efficiency programs can be utilized for the approximately \$800 million in residential energy efficiency programs planned under SEP and EECBG. This determination will be critical and needs to happen quickly. Twenty-five percent unemployment in the construction trades and a 38% drop in residential construction jobs since the recession started, could be partially alleviated by permitting these projects to go forward.

Another provision of Davis-Bacon requires that employees be paid weekly. In Maryland, and I believe elsewhere, many potential recipients of federal stimulus funds have declined awards upon learning of the need to reprogram their entire payroll system. It simply costs too much to accept the federal grant.

Buy-American—For Buy-American requirements, three product waivers have been issued since the start of 2010 for LED street lighting, CFLs and certain types of electronic ballasts. These products are simply not made here. Without more guidance in the Davis-Bacon and Buy-American areas, the state and local governments are simply requiring that fund recipients ensure that the laws are complied with. We recognize the importance of these legal requirements; we are simply stating that it has caused delay.

Historic Preservation—ARRA has created an avalanche of new work for state historic preservation agencies. Maryland, for example, will issue over a thousand ARRA grants and each one will need to be reviewed by our state historic preservation office. We have worked collaboratively to establish a screening process whereby grants at newly constructed buildings are approved quickly, whereas work performed at older buildings receive heightened scrutiny. Despite this workable arrangement, it sometimes causes frustrating delays. DOE, the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation recently concluded a model agreement that will hopefully speed program implementation.

ARRA’S ENERGY INVESTMENTS ARE BEGINNING TO PAY SIGNIFICANT DIVIDENDS

It is sometimes said that “Statistics lie, but stories tell the truth.” Let me briefly highlight four examples of early successes that Governor O’Malley and the Maryland Energy Administration have achieved thus far. I believe these stories show that ARRA’s clean energy investments are beginning to show significant returns.

First, we announced last week the “Greens at Liberty Road” project, which involves the construction of 105 affordable rental housing units for the elderly in northwest Baltimore County. The typical resident will enjoy energy savings of approximately 20%. The savings are particularly significant because low income families pay a disproportionate share of their income on energy.

Thus far, over 1,300 apartments occupied by low income Marylanders have been retrofitted to date with ARRA funds. The Maryland Energy Efficiency Housing Affordability program provides grants for energy audits and the purchase and installation of equipment and materials for energy efficiency and renewable energy measures in affordable multi-family rental housing. The program is an ongoing partner-

ship between the Maryland Department of Housing and Community Development and the Maryland Energy Administration and is part of Governor Martin O'Malley's EmPOWER Maryland initiative, which aims to reduce the state's peak demand and overall energy consumption by 15 percent by 2015.

Governor Martin O'Malley also announced last week a "Clean Energy Economic Development Initiative" grant to TDI, a Bethesda based company that manufactures components of energy efficient lighting. With this funding, TDI will be able to transform their production from 'batch' to 'continuous' and they anticipate hiring new employees. TDI was one of four companies receiving the first round of performance-based awards to businesses that will spur clean energy production and create jobs in Maryland. Other winners include SWEBO, a Swedish-based biomass company that recently opened its U.S. headquarters in Bowie, Maryland, Competitive Power Ventures, which is proposing to build a 10MW solar installation in Charles County, and Maryland Environmental Services, which is developing a poultry litter-based biomass facility at the Maryland Eastern Correctional Installation.

To bring the benefits of clean energy within reach of Main Street Maryland, Governor O'Malley has also invested \$4 million of SEP funds into the development of an innovative, property-assessed clean energy (PACE) loan program. The EmPOWER Financing initiative seeks to leverage public funds with private capital to offer local governments a voluntary, clean energy loan program for their citizens. Maryland families and small businesses will benefit from the opportunity to obtain loans, which will be assessed on their property, to lower upfront costs for energy efficiency improvements and renewable energy installations. In close partnership with the Maryland Clean Energy Center, both the City of Annapolis and Montgomery County have enacted implementing local ordinances and several other localities are actively following suit. We hope to issue the first 50 loans over the next quarter.

My final story involves our residential solar grant program. With hundreds of Marylanders on our wait-list, the Maryland Energy Administration exhausted its annual budget early in the fiscal year. Using ARRA funds, MEA was able to keep this program running. In just the last few months, over 100 homeowners have installed systems on their homes. An additional 185 homeowners have been approved for grants, while over 400 individuals are on a wait-list. The wait-list ensures a steady flow of work and avoids the boom and bust cycle, so solar installers can hire new crews with the confidence that the funds will continue through April 2012, the end of ARRA.

Qualified Energy Conservation Bonds—Last week, when the Senate passed the first Jobs Bill, it approved a provision to allow Qualified Energy Conservation Bonds (QECBs), which are currently structured as tax-credit bonds, to be issued as direct-subsidy bonds, which have been far more successful. This is an important change for a valuable yet difficult-to-issue Stimulus bond program. I thank the Committee for your leadership on this issue and encourage you to work with the House to not only keep the Senate language in the final bill but also raise the subsidy level.

Maryland's QECB allocation is a little more than \$58 million, split among 12 local governments and the state. Maryland's eligible local governments are very interested in issuing QECBs to help finance viable energy projects that will save energy and create jobs. Until the change to direct-subsidy bonds and a higher subsidy level are enacted, QECBs will continue to be tantalizingly out of reach."

Smart Grid—We are also concerned about the apparent impasse between the IRS and DOE on the taxability of "Smart Grid" grants. These grants should not be subject to federal taxation. This is slowing these projects and will reduce their reach and effectiveness.

PROGRAMS IN OTHER STATES

More complete updates are attached to this testimony.*

Alabama—This state has focused on a revolving loan program (\$25 million), funding for energy efficient school retrofits (\$5 million) and \$20 million for state building energy efficiency retrofits including performance contracting.

Alaska—The state is working to establish a bond program that would utilize \$18 million in ARRA funds to match \$250 million in bonds for revolving loans for state and municipal building retrofits. Their appliance rebate program is targeted to begin on March 16, and will work with Alaskans with disabilities.

Arizona—\$19 million is being dedicated to school energy efficiency programs, with additional innovative activities in the agricultural sector and for non-profits.

* Updates have been retained in committee files.

Arkansas—This state has also established a revolving loan fund for K-12 schools, job training at technical and community colleges and industrial and agricultural energy efficiency programs. Arkansas has also established a \$12 million revolving fund for sustainable building design.

Colorado—\$19 million of Colorado's funds went to revolving loan funds, New Energy Economy Development Grants, renewable energy finance and a cooperative activity on technology commercialization with NREL. Residential energy efficiency programs received almost \$6 million and a variety of renewable energy activities received almost \$10 million.

Kansas—Over \$34 million in ARRA funds have been committed to revolving loans for residences and small businesses. The state is providing a \$250 rebate to local banks to defray the costs for financing energy efficiency improvements.

Kentucky—Almost \$10 million is allocated for energy efficiency programs in schools. They have also allocated funds for agricultural energy programs and a Home Performance with Energy Star program.

Louisiana—Almost \$26 million was allocated to energy efficiency in state university buildings. They have also expanded their home energy efficiency rebate (HERO) program. They have also developed a commercial buildings energy efficiency program.

Michigan—They allocated \$24 million for energy efficiency in small industrial operations and supplier expansion activities for wind, solar, geothermal and biomass.

New Hampshire—This state has 16 separate SEP programs, including their revolving loan fund and a first-time homebuyer's energy efficiency program.

New Jersey—\$7 million has been allocated to fund solar installations on multi-family buildings for income-qualified recipients. Residential energy efficiency activities also received \$8 million (including single and multi-family residences).

New Mexico—\$24 million under SEP was awarded to schools, colleges, tribes and other agencies to improve energy efficiency. Transportation programs and community-based district heating and cooling also received funds.

North Carolina—Over \$11 million was allocated to small businesses and industry for energy savings and renewable energy activities. \$18 million was used to create an energy investment revolving loan fund for businesses, schools and other agencies.

North Dakota—This state is working with the utilities providing consumer rebates for installation of energy efficiency and renewable energy equipment. Their wide variety of projects include extensive work with the agricultural and industrial sector and a high efficiency furnace rebate program.

Pennsylvania—\$82 million in SEP ARRA funds have been awarded, with most of the contracts executed for wind, biogas, combined heat and power and solar projects. Like many states, Pennsylvania has allocated funds for revolving loan programs (\$12 million for the Green Energy Revolving Loan Fund).

South Dakota—They committed \$20 million for a revolving loan for state institutions. They are also targeting on-site generation activities, ground source heat pumps and HVAC improvements.

Tennessee—\$24 million has been committed to the Tennessee Solar Institute, and additional funds for comprehensive solar programs throughout the state.

Utah—\$3 million has been dedicated to a whole home retrofit initiative with an additional \$3 million for builder rebates for high performance homes. Public schools also received funding directly and through a revolving loan.

Vermont—In this state they are expanding grants and loans for renewable energy through the Clean Energy Development Fund.

Washington—They established an energy efficiency and renewable energy loan and grant program. They also dedicated \$14 million for community-wide urban residential and a commercial energy efficiency pilot program. An additional \$5 million was provided as a credit enhancement to support \$50 million in project expenditures.

Wisconsin—This states' Energy Independent Communities Program has been an excellent example of state-local cooperation. This is complementing efforts under EECBG and SEP. Wisconsin has utilized ARRA funds to focus on manufacturing retooling and expanding new energy efficiency and renewable energy efforts.

Wyoming—\$19 million was provided for energy efficiency upgrades for public buildings, tribal entities and non-profit organizations. \$3.5 million was contributed to weatherize homes for individuals above the WAP level, up to 250% of poverty.

The CHAIRMAN. Thank you very much. Thank you all for your testimony.

Let me start with a few questions. Matt, let me ask you, on this issue that Ms. Nellenbach raised about monthly reporting. I've

heard this same concern raised in my home State, where the same folks working in State government to get these funds distributed and allocated and all are the ones who are being asked to do these reports. They've been doing quarterly reports, as I understand it, and now they've been told they need to do monthly reports. I heard the same concern that I think Ms. Nellenbach talked about is—if this is the Department of Energy's requirement, then are we going to see this all across the Federal Government, that we've got to do monthly reports for all ARRA spending, going forward? It seems like a very major recordkeeping burden. I don't know if there's any justification that you folks have settled on, that you think causes you to require it.

Mr. ROGERS. So, in terms of the managerial reporting requirements, if you think about the quarterly reporting, that is about public accountability, making sure that, every quarter, we talk about how many jobs are created and how much money has been spent.

Monthly reporting is what I would refer to as “managerial oversight.” We're targeting managerial oversight reporting requirements on 12 specific projects that, up front, were identified as potentially high risk areas, weatherization being one of them, because what it allows us to do within the Department is to focus resources on helping those States and localities that are struggling the most.

So, if we take weatherization—it's actually a very simple reporting requirement. We want units weatherized and funds spent every month. By getting units weatherized and funds spent every month, what it allows us to do, then, is to identify those States and localities that are having the hardest time actually getting the units done against the targets that they have set for themselves working together with DOE. What that then allows us to do is to focus our training, oversight, and technical support resources on those communities that need them the most.

The challenge is, without that data, we end up having to search around and find the areas that are in most need. The paradox is that sometimes the communities in most need, because they are under water, don't even know what to ask for. What this does is, it gives us the kind of managerial data that, frankly, any business has. How much data do we need to have? Just in those programs where there is a great risk that we may not be achieving the numbers that we expect.

The CHAIRMAN. All right. I think, we'll just have to sort of feel our way along and see if the requirement is one that can be accommodated by the States and still get all the rest of what they need to do done.

Let me ask—I think, also, you talked, Matt, about the various programs that have been oversubscribed, and the number of folks who've come forward with good applications that you haven't been able to fund. Are there some particular areas that you folks have made funds available in that you think additional funds ought to be made available in by the Congress in future budgets, for example, because of the quality and quantity of applications that you've received?

Mr. ROGERS. One of the real privileges of this role is to look at the pipeline of new innovation going on in the United States right now. It is a rich and deep pipeline of very high quality projects.

The area that I was most excited about, and most disappointed in our inability to fund fully, were the 48C manufacturing tax credits. We were oversubscribed in that program, by 3 to 1, with really terrific projects. We were able to fund 183 projects, 43 States, for \$2.3 billion, but we could have easily done double that with projects that, as we went through this competitive merit review process, were above the line, really good projects that we would have been excited to fund.

What we're trying to do under that program is rebuild U.S. leadership in high technology, clean energy manufacturing. It's in wind, it's in solar, it's in nuclear, it's in geothermal, it's in energy efficiency, it's in the automotive sector, where U.S. manufacturers have the potential to produce the most competitive products in the world, but need the capital and need the kind of tax breaks to be able to make upgrades to their manufacturing facilities. So, that was the one that we were most excited about the project pipeline, and most disappointed with the quality of the projects that we were not able to fund.

The CHAIRMAN. Let me just ask—this runs over my time, but I'd like to ask one followup on that. We're likely to be debating, on the Senate floor, one or more amendments related to foreign-produced wind turbines, particularly wind turbines produced in China, and whether or not it's appropriate for us to limit the use of Recovery Act funds to—and tax benefits—to projects that produce—or that involve the use of wind turbines manufactured here in this country.

I don't know if you've had a chance to look at these amendments, or if you have any thoughts about the issue; if you do, I'd be interested in hearing.

Mr. ROGERS. We share a common goal, which is creating jobs for American workers. That's clearly the focus of the Recovery Act, it's the focus of every dollar that we spend within the Department of Energy. With respect to the 1603 program, in particular, 100 percent of those funds go to U.S. projects. So, the reporting has been more than a little misleading in this area.

Vestas is a foreign company that has invested in the United States, in Colorado, to build a facility. Those are the kind of jobs that we actually want. We've seen, as a result of 1603 and 48C, \$10 billion of foreign investment in the United States in the last year. When Nissan builds an auto factory in Smyrna, Tennessee, we are really excited about that, because that's jobs for American workers. Frankly, wherever the headquarters are, what we want are the jobs here.

The other issue which is important in this discussion is, today about 63 percent of the value-added of a wind turbine, as a simple example, is made in the United States; the rest is imported. The biggest problem we have is not enough manufacturing capacity in the United States. So, things like the 48C program, where we're trying to expand the manufacturing capacity, are essential. The most important thing we could do to fix the—make sure we get more jobs in America is to expand the manufacturing capacity here in the United States.

What we've done with the 1603 program—this is a program that is really working. We were going to see about a 50-percent drop in employment in the wind sector last year if we hadn't done that. So, these were jobs that were saved. Instead, we saw a 3-percent increase in wind energy capacity in the United States, and an increase—we've more than doubled the American content of wind turbines in the last 5 years. This is a program that's working. What we need to do is build more manufacturing.

So, we are very excited about working with Congress to develop programs that make sure more and more of that is U.S. content. That, we can work with Congress and, I think, develop—while I have not seen the current language. I think the challenge is—what we don't want to do is stop a program that's really, really working well and putting Americans to work today.

The CHAIRMAN. Thank you.

Senator MURKOWSKI.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Rogers, would like to follow up. I absolutely agree with you that we need to be looking to the number of jobs that are created here. Oftentimes you look at the name of the corporation and where it's based, and you say, "Ah, there's the issue" It oftentimes turns out to be a red herring. I would like your comments on this American University report, because in that report they indicate that almost 80 percent of the money has gone to foreign manufacturers of wind turbines. It may be that it's explained, as you have said, that they were foreign-based. But, they go further to state that, "The stimulus bill created approximately 6,000 jobs overseas and maybe a couple hundred in the United States." I am not sure if this was necessarily part of the American University report, but there are some press accounts that there is a Chinese company called A-Power, which is helping to build a wind farm in Texas. They expect to receive 450 million in stimulus dollars. The American partner on that project, which allows the American base, estimates that it could create about 300 temporary construction jobs in this country, but it's creating 2,000 manufacturing jobs in China.

I agree with you, we have to do more to build our manufacturing base here. But, can you comment on, first, the American University report. How do we balance this out to ensure that we really get the bulk of the jobs here in this country, and not 6,000 overseas and a couple hundred here, and then we then claim that this is a jobs-producing bill for us? I would also like you, in this vein, to comment on the request from our colleagues Senators Schumer, Casey, Brown, and Tester, on their call for an immediate suspension of the Wind Energy Grant Program, until we can sort all this out. If you can address that, I would appreciate it.

Mr. ROGERS. Over the last decade, one of the challenges that the United States faced is that we did not have a set of incentives, either for clean energy development or for clean energy manufacturing, that were competitive on a global basis. So, some of the most successful companies in the world decided to startup elsewhere; they started in Spain, they started in Denmark, they started in Germany. One of the things that we are trying to do is to change that landscape.

So when we now have created a set of incentives, both on the manufacturing side and on the development side, that are attractive, these companies, the best companies in the world in clean energy, are investing in the United States, because the United States has actually created the most attractive market for investment and job creation in the world. That's actually what we want to be doing.

The 1603 program is doing that, and bringing those jobs here. So, when the American University says that—I forget the number—80 percent, 79 percent of the companies were headquartered abroad, that's probably a true statement. The fact that those jobs are here in the United States is somehow missed in the report.

What we're seeing is investment in manufacturing. Gamesa is a Spanish company. They took a U.S. steel facility and turned it into a wind facility in Pennsylvania. They are now bringing people back to work. Over the last month, they actually just brought back 2 full shifts of operation because of the demand that they saw under the 1603 program.

If we lead to an immediate cessation, the problem is that what Gamesa will have to do is lay those folks off, because all of the sudden the project can't continue going forward, because the project somehow doesn't meet a requirement or because we create such regulatory uncertainty that people say, "You know, I really don't want to move ahead."

The last piece is with respect to the Texas project. There is no project. We have no application. They haven't broken ground on anything. One of the challenges that we face in clean energy development—I'm sure you see this all time—is, lots of people announce projects on paper, because they really, really would like to attract investors, and they'd like to position themselves well for other things. Until we have a project, we have nothing that we can actually evaluate. If we have a project, what we see is, in the vast majority of projects in the United States, the vast majority of the content is domestically based. So, we can only evaluate what we actually have. There is no Texas wind project, other than on a press release. So, until we see that application, it's really hard to evaluate it.

Senator MURKOWSKI. Would you dispute, the American University report, when it says that some 6,000 jobs have been created overseas and maybe a couple hundred is what—

Mr. ROGERS. I would—

Senator MURKOWSKI [continuing]. The terminology—

Mr. ROGERS [continuing]. I would say that—

Senator MURKOWSKI [continuing]. That they used.

Mr. ROGERS [continuing]. That was factually false.

Senator MURKOWSKI. Factually false. I will have to check back on this, because we've looked at the situation with the Spanish firm Iberdrola, and the manufacturer Gamesa. It was my understanding within the Pennsylvania facilities, that they had to lay off about 100 workers, and I'm understanding it's temporary but, based on what's going on within the market, they had to lay off their workers as well.

Mr. ROGERS. With respect—

Senator MURKOWSKI. So—

Mr. ROGERS [continuing]. Specifically, to the Gamesa facility, they called them back, about 3 weeks ago, to full strength—again, based on the demand that they were seeing in the marketplace. So, again, this is—these are the things that we find very reassuring and very confidence- building. One of the things that we don’t—one of the challenges that we’ve faced in—particularly in clean energy regulation, is we’ve been inconsistent with what we were doing, and so, people freeze and then, you know, don’t invest the capital. We’re actually seeing the capital investing, we’re seeing rapid growth in the market, we’re seeing people called back to work. So, what we don’t want to do is disrupt that. At the same time, I do think we need to work to make sure that we’re maximizing the jobs here in the United States.

Senator MURKOWSKI. I understand, based on what you said, you would disagree with our democratic colleagues, with their request to halt the funding to the wind grant programs.

Mr. ROGERS. We are looking forward to working with Congress to make sure that we have appropriate provisions. Halting a program at this point would not be helpful for jobs.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Stabenow.

Senator STABENOW. Thank you very much, Mr. Chairman.

Welcome, to each of you. I would just like to follow along this discussion, which I think is so very important.

First, coming from Michigan, I can say that the Recovery Act has absolutely created jobs. We have been extremely pleased to work with the administration on the advance battery manufacturing dollars, which are opening plants and putting people back to work, as well as the 48C, the advance manufacturing credit, which I was pleased to partner with Senator Bingaman in championing in the Recovery Act, as well. Retooling loans are bringing back, literally, cars that were made in Mexico to being made in the United States, because we’re helping retool plants for smaller energy-efficient electric vehicle and so on. So, I appreciate that.

I guess, to add my voice to this, though, we, in my judgment, need to have an advanced manufacturing strategy in this country. We have bits—we have bits and pieces of it that we’ve put into the Recovery Act. But, we are in this dilemma, in my judgment, of creating new industry when we don’t yet have full capacity.

I think of the Advanced Battery Initiatives. We have companies—our auto companies partnering with Korean companies, who make the battery cell, because they can do the battery pack, and assemble it, but they don’t yet have the technology for the cell. On the other hand, I guess what I would challenge us, is we do have a company—A123 Batteries—in this country, that is doing all of it. So, how do we prioritize, when we do have companies that are beginning to focus on, you know, bringing that technology—and they actually came back from Asia. They were in Asia, and came back. It’s a wonderful story; an American company producing in Asia came back to the United States.

So, one of my questions relates to, How do we make sure we are giving priority to those that are developing here, the complete package here in the United States? I would suggest that, while I share the concerns of colleaguea that—in terms of, “How do we

make sure these jobs are all happening here?" it is not just section 1603 that's the problem; it's the fact—if it's a—if it's by itself, that's the problem. So, expanding in—and we are, you know, working together to—and support the President in his call for additional moneys for the manufacturing tax credit in 48C, and the retooling programs, and so on. Because, I think we have to have a strategy that, in my judgment, also includes things like trade; opening up markets, as the President has called for; trade enforcement, when they steal our patents overseas. I mean, we need a whole strategy.

Right now, on wind turbines, there are 8,000 parts in a big wind turbine. Mr. Chairman, we could make every one of those in Michigan, if given the opportunity. But, we know right now that—I think we have one American company that makes gear boxes, and, you know, the first supplier of generators just came online last year.

So, I would just ask you to—as we look at all these programs that we're putting together, what is DOE doing to take into account the fact that we have to create the capacity—and I know that—I know you've spoken to that, but it seems to me, we have to be laser focused on how we create that capacity here. We need to do our part, as well, to make sure that we are not in a situation that we have been in with other industries, where—never forget the President going to England and—Great Britain—presenting to the Queen a great American ingenuity, the iPod, developed in America, made in China. So, we don't want that to happen with clean energy, there is absolutely no reason for that to happen on clean energy.

So, I guess I would just ask you to—your thinking, more broadly, on what we ought to doing, what DOE's doing to, as quickly as possible, fill in these gaps.

Mr. ROGERS. I think it's exactly the right question. This is something that is deeply important to the Secretary. If you take the specific examples of the battery grants, where companies like A123, which started as a small-business innovative research program under DOE, with \$100,000, and now is the largest recipient under the battery program, was going to build their plants in China, now A123 is going to build them here in the United States.

I think we draw 2 pieces. First, under the selection criteria you had to have a domestic demand source to go with the domestic manufacturing, in order to actually move up the chain in the reviews. So, one of the things that we clearly recognize is the need to manage a supply and demand together. Because if we do one without the other, all of a sudden we could end up with factories that are empty, or we end up importing, because we're buying really high quality stuff, but we don't have the manufacturing capacity. So, we have to think about supply and demand together.

The other thing that I think the A123 story illustrates is the need to link R&D and manufacturing. One of the things that the Secretary is doing is having a national conversation about the notion of accelerating innovation. How do we accelerate innovation in this country? One of the clear messages back is that, when I do R&D, I actually want my factory next-door, because that's where the innovation actually takes place. Because I can take the R&D and I can turn it into money in the factory by innovating the way that I'm actually producing the product. If I don't have the manu-

facturing here, all of the sudden it's harder actually to keep the R&D here. Right?

So, we have to think about supply and manufacturing and R&D together to make that work. This is an enormously important theme for the Secretary. He's working a lot of time, on a national basis, really trying to understand, "How do we articulate this in a comprehensive way?" Because if we're going to be successful competing on a global basis, we've got to think about that whole value chain together.

Senator STABENOW. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Thank you all for your service.

Mr. Rogers, I want to ask you about the Energy Efficiency Block Grants. I will tell you, the process, obviously, has been long and drawn out. But, I am just baffled about how the Department is going about making some of its decisions in this area. I want to walk you through an example that has been very frustrating to my constituents.

I was recently having a townhall meeting in Condon. It's Condon, Oregon, population 600. The city received a grant of \$244,000 to make repairs and upgrade its water system and save thousands of kilowatt hours of electricity that are now used to pump water through an out-of-date, leaky water system. The project that they proposed clearly would save energy, it would save money, and it would save water.

Your Department told them that their project was ineligible. So, I have written to the Secretary about this. We haven't yet gotten an answer. The committee has worked hard to figure out how they can save energy, make their own contribution to creating some jobs and advancing our national energy goals. We are just baffled as to why the Department doesn't think they should get the grant. I think there's also some indications that, initially, they thought they were going to get the grant. So, anything you can do to shed some light on this, this morning, and give us your thought?

Mr. ROGERS. The overarching observation I'd make is, one of the exciting parts about the Energy Efficiency Conservation Block Grant Program is the innovation that is going on at the local level and giving the localities the ability to prioritize projects, because they know, actually, where the best place is to spend the money locally. So, that's why we're quite excited about that program.

With respect to the city of Condon issue, this is an issue where—my understanding, at least, is that, in the initial application, the energy savings were unclear. One of the clear mandates that we have is to make sure that the energy savings are there.

We've gone back—Secretary's gone back, and I've gone back—to investigate that we will, in fact, re-review that application and make sure that—if the energy benefits are there, we will make sure that that grant can actually move forward.

I think this is one of those challenges, as both—one of the things that we did under the Conservation Block Grant Program is, we asked a whole set—2350 new recipients to develop energy efficiency plans at the local level, if they hadn't done before. As they developed those plans, we and the communities actually had to learn

how to talk to each other about what energy savings looked like, how to measure that. I think we're getting much more articulate in that conversation now. We'll be more than happy to take a look at that one and get back to you promptly.

Senator WYDEN. Would you? Because it—again, I think—we're pleased to hear that it's going to be reviewed, but the State did the original evaluation for it. Apparently, they scored 4 out of 5 in all of the relevant criteria—being shovel-ready, ability to implement the project, the benefits to the community.

I'll just tell you, this, to me, is the real world. I mean, these are tiny communities. I have open meetings every county, every year. I'm concerned that they walk away and think that the Federal Government is going to have policies that turn them into a sacrifice zone that basically say, "What goes on in a community, like Condon, really isn't all that important."

I've seen the pictures they show, with respect to the problems they have in these pipes. They're just big old enormous holes. I mean, this is not rocket-science stuff, and I just hope that we can get, to the good people of Condon, some positive news here, because, on every count, the evidence, whether it's assembled by the State—or the pictures that they walked me, you know, through—it seems to me this should have been resolved a long time ago.

When can you get back to me with respect to the timetable for re-reviewing and when a decision's going to get made?

Mr. ROGERS. We can get back to you in the next couple weeks on that topic. This is not that complicated.

[The information referred to follows:]

DEPARTMENT OF ENERGY
Washington, DC, March 9, 2010.

Hon. RON WYDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Thank you for your February 19, 2010, letter to Secretary Chu regarding the Energy Efficiency and Conservation Block Grant (EECBG) funding for the City of Condon, Oregon.

The EECBG project submitted by the City of Condon called for the replacement of 2,000 feet of aged water pipeline and the installation of new water meters. The Department of Energy's (DOE) review suggested that the project would have limited energy savings over its lifetime and as a result, the project would require a long payback period. Thus, we initially did not approve the project.

On March 5, 2010, we discussed the merits of the City of Condon's project with the Oregon State Energy Office. The State of Oregon conducted a comprehensive merit-based review of the application. Within that review, the State considered not only the energy saved, but the project's "shovel-readiness" and its ability to generate jobs. In addition, the State considered the demographic diversity of each project, its contribution to conserving water, and the synergies between projects. Based on this, and other new information, the DOE approves the City of Condon's pipeline project.

Thank you for bringing this matter to my attention and for your commitment to energy efficiency and renewable energy. If you need additional information, please contact me or Mr. Jonathan Levy, Office of Congressional and Intergovernmental Affairs, at (202) 586-5450.

Sincerely,

CATHY ZOI,
Assistant Secretary.

Mr. ROGERS. One of the things we discovered in this process was, when we got in the initial applications from so many communities—right? This is part of the learning process—we ended up putting about 100 people down in the basement of the Department of Energy to call people. Because one of the things we found was,

the traditional bureaucratic processes, where we go and toss things back and forth over the transom, those don't work. Right? The key thing is to actually pick up the phone, call the city, really understand what they're trying to do, and make sure that we can do the translation function into the necessary forms to make that work. So, we'll get to the get to the bottom of that. I'll be happy, personally, to get back to you—

Senator WYDEN. Thank—

Mr. ROGERS [continuing]. On that.

Senator WYDEN. Thank you. There's no question that you and the folks at your Department are well intentioned. I am absolutely convinced there is nobody at the Department of Energy who got up that morning and said, "I want to spend my day being rotten to the people of Condon, Oregon." That is not at issue. Your folks are well intentioned, trying to do the right thing. But, these places are falling between the cracks, Mr. Rogers. We can't have that. I'm going to just assume we're going to get this resolved within the next 2 weeks.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator BURR.

Senator BURR. Thank you, Mr. Chairman.

Mr. Rogers, in a report to Secretary Chu the inspector general, Gregory Friedman, said that, as of February 16th, only \$368 million, or 8 percent, of the \$4.73 billion targeted for weatherization programs had been tapped by State and local governments. Now, that computes to only 30,297 homes, when the target was 586,000. In North Carolina, if I break that down, it's 197 homes, with a target of 22,000.

Now, on the surface, it seems to me that we rushed to put together a spending program, to put together items that we thought were attractive, that would generate economic activity, and that we gave very little thought to the challenges of how quickly you could stand these programs up.

My question's really to the entire panel. How can you effectively and efficiently put this money to work?

Mr. ROGERS. Maybe I'll start, and others have good views on this program, as well.

So, that what—the data that you cited from Greg Friedman was actually end-of-the-year data, that we'd done 30,000 homes with Recovery Act funds by the end of the year. Actually, the Weatherization Program, overall, did 125,000 homes last year, which was a 70-percent increase on the year prior. So, big step up in the program, good execution on that. We slowed up, for a variety of Davis-Bacon related reasons, in terms of spending Recovery Act funds, but they actually got a lot of homes weatherized.

We're on pace to do 250,000 homes this year. In the month of January, we were operating at about a 17,000-homes-a-month rate. We believe we were up on that in February. We're targeting a 30,000-homes-a-month rate by the end of March. This is about making sure that each of the recipients understands what their targets are and understands that we can help if they're behind with training and technical assistance to make sure that they're successful.

As of this morning, we've actually outlaid \$590 million of the Weatherization Program, so almost double the number that we were at—just at the end of December. So, we're making good progress, and accelerating progress, under this program.

Senator BURR. Let me sort of expand the scope, and I'll let everybody comment on it. During a DOE budget hearing, February 4, Secretary Chu suggested that the delay in stimulus expenditures was at the State and local levels. But, both the inspector general's report and the GAO report suggests it's the Federal requirements that have hindered the expenditure of funds.

Now, you're telling me there's nothing that's been hindered, based upon your comments, that you're right on schedule, you're doing exactly—and, I would love to know, especially from the Governors Association, Is that accurate? GAO suggested that it was the Federal Government, and not the State or local governments. I think maybe we need to sort through this and find out what's the right thing.

Ms. NELLENBACH. Thank you for the opportunity, Senator. We don't—we would generally agree with the GAO's findings that it was the Federal requirements and the unfamiliarity of some of agencies that were now supposed to implement Davis-Bacon, who had not had to do so before. So, unfortunately, it took until July for the Department of Energy to ask Department of Labor to help with the wage determination. To the Department of Labor's credit, it took them 3 months, which I guess is very, very quick for this type of work. But, they, within 3 months, had a wage determination.

So, really no weatherization money, or very limited numbers of weatherization money, could go out the door until September 2009. So, at that point, then, States really got into doing some training and getting workers in place. So, I think you're going to see a ramp up of spending over the next couple months on weatherization, but there was definitely a delay at the Federal level that hindered State ability to spend those funds.

I think an important benefit—well, an important side story to this is, you know, weatherization preceded ARRA by 30 years. A lot of States, and North Carolina included, took the infusion of the ARRA money as an opportunity to make sure that problem can live another 30 years. So, they reformed their programs. North Carolina worked with its community colleges to update its training programs. So, it's—a lot of things were done so that, when the ARRA money runs out, you have more sustainable programs over the long run. But, certainly a lot of that was delayed because of delays at the Federal level.

Senator BURR. OK.

Ms. Dalton.

Mr. WOOLF. If I could respond—

Senator BURR. Sure.

Mr. WOOLF [continuing]. To that, as well. Sorry. On behalf of the NASEO, the State energy officials, progress certainly has been slower than anyone would hope. But, I think some of the data that is being cast about paints an incomplete picture. You don't pay for the work that's been done until it's been satisfactorily completed. So, it's always a lagging indicator.

The work is being done now, businesses are hiring workers, buying more insulation, making purchases, and that's not showing up in GAO's data of money spent, because we don't pay those workers until the job's actually been completed. To prevent waste, fraud, and abuse, we're doing a huge amount of quality control before we're paying them, as well. So, a lot of work has been done, both on weatherization as well as the rest of the programs, that we're not seeing in the Federal costing numbers, but it—are real jobs being created. There's success stories in every State to back that up.

Senator BURR. Ms. Dalton.

Ms. DALTON. I would actually agree with all of my colleagues, but try to put a picture on what was happening. There was an awful lot of effort that was put in, last year, in building the infrastructure of this program. I grew by twentyfold from the original program. But, there certainly were things, like the Davis-Bacon requirements, that did cause some delays, and I think they still are causing some concerns at the State level.

The Davis-Bacon, wage determination came out in September. The government really didn't start action on it until June. It was something that probably could have been foreseen a little bit earlier and moved along faster. States rightly, I think, decided to wait until that final wage determination came out before they started actually implementing the Recovery Act.

In the meantime, as was pointed out by the Department of Energy, they did start weatherization activities using their base program that comes through their annual appropriation, and about 100,000 homes were weatherized through that program.

But, as problems come up, it's important to quickly react to them. As I said, on Davis-Bacon, we probably could have reacted a little bit sooner. There are continuing concerns with it. For example, the wage determination that came out in September applies to residential housing units. There's continuing concerns on larger housing units, those that are 5 floors or higher, and what wage rates should be applied there. It's difficult for the contractors that are actually doing the weatherizing to figure out, "Well, which wage rate should I be using here?" and paying, potentially, the same workers different rates because of what work they're doing.

These are things I think we need to be proactive about and try to get resolution so that the States aren't—and the local governments—aren't having to deal with this issue.

The CHAIRMAN. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Rogers, I was proud to support the President in the passage of the Recovery Act. When he signed it, he declared that the plan would, quote, "be implemented with an unprecedented level of transparency and accountability." However, my staff has made several inquiries to your offices to find out how many New Jersey companies applied for the Advanced Energy Manufacturing Tax Credit, 48C. They were told that this information could not be shared. We didn't ask for names of any applicants, we asked for how many companies applied.

Now, as we look to extend this program, information like this is critically important. So, is it truly information that is so secret that

I can't know how many people from my State applied for this program?

Mr. ROGERS. One of the things we've tried to do under this program is to create a high degree of transparency. You go to our Web site, you can see every recipient of our funds. You go—you see our financials every day. So, we are trying to make sure we drive more transparency.

On this—on the particular issue of the tax credit program, the 48C program, the challenge we have there is, we're working on behalf of the Department of Treasury and the IRS. We're act—and we—under those conditions, we actually have to operate under IRS rules, not under DOE regulations. IRS rules specifically prohibit the sharing of that data. We've actually gone—

Senator MENENDEZ. Sharing of—

Mr. ROGERS. Our general—

Senator MENENDEZ [continuing]. Data to know how many entities applied. Not who they are—

Mr. ROGERS. Correct.

Senator MENENDEZ [continuing]. But how many entities applied. You're telling me the—if I get the IRS, that's what they're going to tell me?

Mr. ROGERS. That—we went back to—our general counsel went to the IRS general counsel to ask that question, and that was the answer that came back, was that we were legally prohibited from sharing that information. I'm not an expert, by any means, in IRS rules. So—

Senator MENENDEZ. All right.

Mr. ROGERS [continuing]. I take the—

Senator MENENDEZ. So, we will—

Mr. ROGERS [continuing]. IRS—

Senator MENENDEZ [continuing]. We will get the IRS and get to the bottom of it, because I don't know how Congress is supposed to determine whether there is a sufficient demand for a program in order to make a determination whether it is worthy of extension and producing the results. It's—I mean, somewhat asinine, at the end of the day, that—I'm not looking for who they are, I'm simply looking to know the quantity of demands on something. It's pretty incredible.

Let me ask you something else. We asked how many New Jersey communities have applied for the competitive portion of the Energy Efficiency Block Grant Program, which I authored, and we were stonewalled again. Are these national secrets, as well?

Mr. ROGERS. So, the Energy Efficiency Conservation Block Grant Program, the competitive portion, is a—a very exciting program. So, we applaud your authoring of that—of the—over all the EECBG. The competitive portion, I think, is going to be a very exciting piece to roll out.

One of the things that we've had to be careful with, throughout this process, is on the people that we have turned down for applications. This is broad-based. So, we've—we're oversubscribed, 5 to 1, on average, for all of the competitive activities that we've had underway. We've run through very competitive peer-review processes, with an emphasis on making very high quality decisions as we work through there.

What we worry about is that we've had to turn down some great companies, we've had to turn down some great projects.

Senator MENENDEZ. Let me—

Mr. ROGERS. What we—

Senator MENENDEZ. Let me—

Mr. ROGERS [continuing]. Don't want to do—no—

Senator MENENDEZ. Let—

Mr. ROGERS [continuing]. What we—

Senator MENENDEZ [continuing]. Let me—

Mr. ROGERS [continuing]. Don't want to do—

Senator MENENDEZ [continuing]. Interrupt you, because that's not my question.

Mr. ROGERS. I'm sorry.

Senator MENENDEZ. That's not my question. Let's listen to my question. I asked a simple question. How many New—I didn't ask even who they were—how many New Jersey communities applied for the Energy Efficiency Block Grant? What is the State secret, that I can't get that number?

Mr. ROGERS. So, what we don't want to do is make—is diminish the value of any company that is not awarded funds, even though they're a great project. That—that's the principle that we're operating with. So, there are a whole set of procurement rules that say we cannot disclose things about applicants who are not awarded. That limits our ability—

Senator MENENDEZ. I won't know—

Mr. ROGERS [continuing]. To have conversations—

Senator MENENDEZ [continuing]. Who the applicant wasn't awarded. I'll just know that 100 entities—New Jersey communities—I'm not even talking about companies—100 New Jersey communities applied, and we got 20 of 100. I mean, I—what is—what is wrong with getting this—this is transparency? That I can't know the macro number of communities that—public entities that applied? How can you sit there and tell me that? It's ridiculous. Ridiculous.

Let me ask you one last question. You know, we—I have worked with the U.S. Conference of Mayors, which was one of the instigators of the Energy Efficiency Block Grants, and—as we devised it—and, you know, based on the testimony today, it seems that States have managed to clear away many of the roadblocks hampering the program. Based on my conversations that my staff has had, with the Conference of Mayors and with mayors in my home State, it seems that working through these issues on the local level has been less successful.

What's DOE doing to get Block Grants actually spent—not committed—on the local level? How are we breaking through? It seems I've done fairly well with the States. Why can we not do this with municipalities?

Mr. ROGERS. The level of innovation going on at the local level is absolutely terrific. One of the things that we're trying to do is to do is to expedite that. One of the things that we found was, with 2350 new recipients of DOE funds, that some traditional processes didn't work. So, what we did was, we made a set of changes. What we're effectively doing now is working this on a SWAT team basis.

We've got a group of folks who are designed to knock down each of the barriers in the way.

One of the key challenges right now is making sure that each of the communities has described what it is that they're going to spend the money on, and that we can categorically clear that through things like NEPA reviews. What we've created are a whole set of very streamlined 1-page things, that basically you can check off and say, you know, "Therefore, we—therefore, we're ready to move forward." So, we've created a whole new set of ways to get this done. Basically what we're doing is calling communities one by one to make sure that that happens, with a group of about 80 folks in our offices, because what we've discovered is, again, it doesn't work very well with mail coming in, or even emails; it works really well when we can get on the phone with people and actually work through it, and just clear them. Because what we're trying to do with each of those—the mantra that we've put in place there is, "Move a set of communities across the line, get them spending every day."

Senator MENENDEZ. I look forward to following up with you. You know, as one Senator who has been supportive, you're not going to get my support if I can't simply get information. I can't make decisions that are intelligent, I can't act as a fiduciary for the 9 million New Jerseyans I represent here, I can't make intelligent budget decisions on your requests, if I can't get information. So, either we're going to change the paradigm on how we get information, or you're going to lose one Senator's vote here, at the end of the day.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Woolf, let me ask you—you and Ms. Dalton have both made reference to this problem with the wage rates, saying that the wage rates were decided, as I understand it, and established by the Department of Labor in September for residential construction, but they have not yet been fully established, I guess, with regard to other types of construction. Could you elaborate on what that problem is and what is needed to get that problem fixed?

Mr. WOOLF. I think we were talking about 2 different aspects of the same type of problem. What the Department of Labor has done, in a very expedited manner, is create, for the first time, a wage classification for weatherization retrofits. It's never been subject to that, to Davis-Bacon, before. Now, that we know that a wage rate for a contractor who's retrofitting a low-income home, we want to apply that same wage rate for the same contractor who's doing the non-low-income home outside of the Weatherization Program.

So, if you're doing—if your community, using EECBG funds, are retrofitting buildings, it's the same work, it's often simply the same—literally, the same contractor. The Department of Labor has not allowed that wage classification to be extended beyond weatherization to other categories; so communities have to guess; contractors who are applying have to guess what wage classification to use; one contractor may make one assumption another may make another; gives them a competitive advantage, because of the uncertainty. It is impacting how quickly jobs are getting done.

The CHAIRMAN. So, you're suggesting that Department of Labor needs to clarify that the wage rates they've established for this

weatherization activity should be applicable for any weatherization activity, whether it's federally subsidized or not?

Mr. WOOLF. Regardless of which Federal program it's—

The CHAIRMAN. Regardless of which—

Mr. WOOLF [continuing]. Coming from.

The CHAIRMAN [continuing]. Which program is subsidizing it. Is that your understanding of the problem, as well, Ms. Dalton, or not?

Ms. DALTON. I think there's just one other aspect of the problem, and that was what I was referring to, where the Department of Labor has said that a different class of worker and wage rate should be applied to, as I said, buildings that are more than 4 floors high. What they haven't looked at is what, exactly, is the work that's going to be done, and setting a wage rate for that.

So, what they've said is that, for those larger buildings, you should be applying a wage rate that's for a different class of construction work—for plumbers or electricians, as opposed to weatherization workers. What they really need to look at is weatherization workers, and what types of work are going to be done, and what the wage rate should be for them, so that there is a determination that people can go to, to say, "All right, this is the class of worker; this is what we're doing," and not bringing in electricians and plumbers and all of these other types of activities.

I think—some of this has been just because, as there's a better understanding of the Weatherization Program, there's clear understanding of the types of work, but I think the Department of Energy and the Department of Labor really need to talk to each other and reach, as I said, some consistent guidance and determinations that State, local governments, and contractors can use. It's really unclear. We keep running across different problems—

The CHAIRMAN. Mr. Rogers, do you know of anything going on that will clarify this, or is this something that we should contact the Department of Labor about? What's your thinking?

Mr. ROGERS. So, this is a topic that we talk to the Department of Labor about just about every day. This is something where—I would note the collaboration with our partners at NASEO and other—and with some of the other national agencies have been very, very helpful. because what it allows us to do is identify the confusion on the front line, and then see if we can solve it at the top level, here.

So, we've been working with Labor on this issue. I think there are 2 different pieces:

In terms of the commercial wage rates, I think that's simply a question of guidance, making sure that, for large buildings, there's clear guidance on which categories you use. The wage rates are clearly established; it's just making sure people are consistent in doing that. That's something that we can do reasonably directly.

In terms of the application of weatherization rates, it's a Department of Labor decision as to what happens there. We've made our views on that known to Labor, and we expect to have that resolved relatively promptly.

The CHAIRMAN. OK. Mr. Woolf, did you want to add anything?

Mr. WOOLF. I did. I know that there are proposals floating on Capitol Hill for further efforts to accelerate clean energy innova-

tion. I would encourage Congress to think about our experiences with Davis-Bacon before they apply that requirement to new programs, because it has been an impediment to getting dollars spent quickly.

The CHAIRMAN. OK.

Senator MURKOWSKI.

Senator MURKOWSKI. Thank you, Mr. Chairman.

You know, I am still as fuzzy on this as before the line of questioning started. The comment was made, I don't remember who made it, but, weatherization programs have been going on in the States for decades now. If we have a State weatherization program in Alaska, and we've been working with our auditors and moving the State level, and then we now have stimulus funds that come in to supplement what we're doing, is the State weatherization program somehow or other snarled up in the wage resolution issues that we have been discussing? It causes me to wonder whether our good intentions, in advancing these stimulus funds, has actually even slowed some of our efforts with our own State weatherization programs.

Mr. Woolf, you look like you're going—

Mr. WOOLF. Yes.

Senator MURKOWSKI [continuing]. To jump in.

Mr. WOOLF. I think what the Davis-Bacon—the application of Davis-Bacon to State weatherization programs has delayed the ability to use the stimulus funds. So, what Maryland and, I think, other States have done is use their other State money, and they've exhausted that money first—

Senator MURKOWSKI. Right.

Mr. WOOLF [continuing]. While the Federal Government has worked out Davis-Bacon. The success story here is that the States, working with the Department of Energy and the Department of Labor, now do have a wage classification for most weatherization activities. That was made in September. It's now kicked up—in Maryland, at least. We've been able to ramp up our production, so we are now about on track to do as many homes as we hoped to, to reach our ultimate goal. What I'm asking for is that be extended—

Senator MURKOWSKI. Sure.

Mr. WOOLF [continuing]. Beyond weatherization, to the other areas.

Senator MURKOWSKI. Let me ask you a question, Mr. Rogers, about Smart Grid. We haven't had a lot of discussion about this. But, you know, that was a big chunk of change, \$4 billion in Smart Grid grants authorized under the stimulus last year. Now there's this issue about whether or not they're subject to Federal taxation. It's my understanding that, while DOE has awarded these Smart Grid grants, the Department hasn't completed the terms and conditions, and so, we haven't seen any funds actually go out and then be distributed to the grant recipients.

There is great expectation as to what we could see from this program, but we haven't had the immediate impact. Given where we are right now, and the fact that we've had this delay on funding distribution, this open question as to whether or not these funds are going to be subject to tax, do you anticipate that we're going

to see any of the recipients declining the awards and backing off? Are we seeing any layoffs, for instance, at the smart metering companies, because the work has stopped with the distribution of these Federal funds? What's our status there?

Mr. ROGERS. So, the status—we're making good progress on that front. We worked very closely with our colleagues at the IRS to get a determination under section 118A. The IRS has actually completed their analysis and will be publishing guidance here shortly that will actually provide clarity on that question.

Senator MURKOWSKI. Do we know what "shortly" is? "Shortly," in my mind, is different than the IRS's mind.

Mr. ROGERS. Yes. I—I'm—that is—that's a fair observation. So, we—our expectation is, it will be in the next 2 weeks, that they will have formal guidance issued on that. We do not anticipate anyone turning back the—turning back the funds, and we've been very pleased with the collaboration with the IRS on this topic.

Senator MURKOWSKI. You don't think we're going to see any retraction on—

Mr. ROGERS. We—I do not expect that.

Senator MURKOWSKI. OK. Then my final question. This is actually directed to you, Mr. Woolf. I appreciated the summaries that you attached for the committee that shows the amount of funding that's been obligated or awarded to selected States. I noticed that you have everybody on the committee, except Alaska. Is there a reason that we don't have Alaska of course, we're very special, but I'm wondering if there was any reason, or if perhaps you could supply that to me.

Mr. WOOLF. We would be happy to supply that.

Senator MURKOWSKI. OK. So, there really wasn't a reason.

Mr. WOOLF. Didn't get it to us in time for the hearing. We'll get it to you as soon as we get it.

Senator MURKOWSKI. OK. I appreciate that. Your organization does keep track of the actual expenditures, in each of these States.

Mr. WOOLF. We do. As States are our members, and we report so that we can keep track of what's happening nationally.

Senator MURKOWSKI. I'm assuming Alaska's a member.

Mr. WOOLF. Absolutely.

Senator MURKOWSKI. OK. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Let me just ask one additional question. I think you referred to this, Matt, in your testimony. One of our big challenges, going forward, is this—this Recovery Act money is such a big infusion of resources into a lot of programs that had no resources before, and into activities that had no funding before. You were saying that one of the keys to really transforming our economy to a clean energy economy is predictability, and where we're headed in the future for—so that folks will know when to—whether they can build their factory here, or do whatever.

It's going to be difficult, I think, to be sure that we properly transition from this high level of funding that we currently have through the Recovery Act to a more normalized budget situation. I guess I'm just anxious that—any insights that you can give us, not necessarily today, but as we go forward, as to how we ensure the predictability of these funding levels as best we can, at what-

ever level they're going to be. I mean, obviously we can't maintain the high funding level once the Recovery Act funds go away, but we can certainly try to be sure that the tax provisions that are helpful are still in place, that the funding programs that are helpful are still in place; that the Weatherization Program not go back to being a sort of a neglected stepchild as it perhaps was prior to this Recovery Act infusion of funds. Any thoughts you've got, I'd be anxious to hear.

Mr. ROGERS. I'd make 2 simple observations. One is that we're asking companies to make long-lived asset decisions. So, we actually have to have a clear set of incentives over the long term. If I'm going to make a 30-year asset investment, I actually have to have a reasonable confidence about what the rules of the road are over an extended period of time.

One of the things that we've tried to do under the Recovery Act is to use this as an opportunity to demonstrate to the private sector that these are some very high-return investments. Senator Murkowski was asking about the Smart Grid program. One of the things that we're encouraged by is seeing this play out in so many different States, and seeing the rate of return that each of those States is going to see on those kind of investments. All of the sudden then, the private sector can take on a set of these funding levels if we have the tax provisions clear and if we have the long-term pricing provisions in the market clear. I think those are the opportunities for this committee over the next year. You are at the center of defining what the playing field looks like for investments in clean energy for the long term.

Mr. WOOLF. If I could jump in on that.

The CHAIRMAN. Yes. Go ahead.

Mr. WOOLF. Sure. The question of, "How do we keep the success from stimulus going after stimulus?" is something that States have given a lot of thought to. I think we've—certainly the level of activity from stimulus has been a huge boost, and we want to keep that going. Most States have invested at least a portion of the stimulus funds in revolving loan programs so that after—even after stimulus when those loans are repaid, it'll keep providing dividends on clean energy.

We are very excited about our Property-Assessed Clean Energy Program, where we're going to use the Federal money to kind of leverage private capital into a revolving loan program to keep that going. Even in a standard program like our Renewable Energy Grant Program, we're intentionally giving out a certain number of grants, each and every month, so that solar companies know they can hire new crews to do the work, and there will be stimulus money available for the next month and the month after that. Keeps the—gets their crews trained; reduces their costs, so that, post-stimulus, the jobs will still be there. So, every State is thinking about, "How do we keep this going after stimulus?" We've got some great successes.

Ms. NELLENBACH. Yes, and, Chairman Bingaman, I would also—echo what Malcolm said, but also, as I had mentioned to Senator Burr, a lot of the States looked at this as an opportunity to really fix some problems with some of their programs. Pennsylvania, for instance, redid its computer system that connects all the commu-

nity action programs that do weatherization so that when the ARRA money does run out, they have a new more efficient system in place.

In terms of the funding window, again, we've been given through March 2012, from the Department of Energy, to spend all the money in those 3 programs. So, most States have in place a plan to gradually spend it over time, so that hopefully that, when March 2012 comes, there's more of a network in place, there's people in place, that it's not a sudden drop off. So, they are looking at the long-term future of those programs.

The CHAIRMAN. Very good.

Did you have a comment, Ms. Dalton.

Ms. DALTON. I would just add one thing looking at the Recovery Act money knowing where we've had some successes and where, maybe, we want to do additional investments post-Recovery Act, and being sure that we've got a plan, moving forward, of, "Do we want to keep the funding at a certain level? Do we want to ramp down and not have any kind of cliff effect?"

The CHAIRMAN. Very good.

Senator Murkowski, did you have additional questions?

Senator MURKOWSKI. Yes. I don't have anymore questions, just a comment at this point.

I really appreciate the last few minutes that we've had, here, because I think there have been some positive comments coming from the State, from the Governors, and that's important to hear. Your final comment, Ms. Dalton, is exceptionally important, because right now there's a lot of pressure on us: create jobs; make things happen now, spend money to make something happen. My fear is that so much of it will be continued—I'll use the phrase, "a kneejerk response"—we have to do something now. I think we do need to take some lessons learned from what we're seeing, last year and now, as we are into the more full-on implementation. I appreciate the process and the difficulty of moving things through, but you hate to be sitting back and saying, "Well, I told you so. I knew we couldn't get it out the door that fast, and that we were going to see this."

I am hopeful that there is more of a vision plan. How do we continue the good things that came from this, rather than, as we work to put together yet another jobs bill, well let's put in another energy piece that maybe DOE is not ready to, or not the best suited to, be advancing. I think we need to be working in a far more coordinated manner. I think we recognize that, when we're talking about our taxpayer dollars going out to create jobs, that not all jobs are created equal. I don't think most of my constituents in Alaska think that creating jobs in China is going to be the best thing for them.

We want to make sure that, as we talk about how we create the jobs, that we're not making our country less competitive by helping to build out the infrastructures and all that is happening overseas. There has to be a very solid piece of this where we're doing exactly what Senator Stabenow has talked about, and what you mentioned, Matt. We have to build that manufacturing base here, but, I think, in an effort to jumpstart some things. We're seeing the criticisms coming out of some of these reports, and we're living with them.

I appreciate the discussion here this morning and, Mr. Chairman, your great willingness to put this on the agenda.

The CHAIRMAN. Thank you all very much. This has been very useful testimony.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]

APPENDIX

RESPONSES TO ADDITIONAL QUESTIONS

RESPONSES OF PATRICIA A. DALTON TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. In your testimony you cite the National Historic Preservation Act as one area that states have reported as a problem. I understand that in some states the local historic preservation laws themselves present issues for weatherization or new clean energy installations. Were you able to separate out issues created by the need to comply with the federal mandate from issues that likely would have already been present under local law?

Answer. No, we did not separate out these issues; we focused only on federal requirements. Federal and state officials told us that the National Historic Preservation Act affected the selection and start of Recovery Act projects, but they did not discuss local laws or requirements nor did we specifically ask about local laws and requirements.

Question 2. In your bi-monthly audits of Recovery Act spending, do you have sufficient data so we can see acceleration of spending, and thus tell if problems have been addressed?

Answer. GAO's bimonthly audits discuss changes in Recovery Act spending and the progress being made in addressing implementation issues for selected programs, including the Department of Energy's Weatherization Assistance Program, though our tracking of Recovery Act spending does not make a causal link between an increased rate of spending and the resolution of problems related to federal requirements. We selected programs for review based primarily on whether they have begun disbursing funds to states or have known or potential risks, such as an existing program receiving significant amounts of Recovery Act funds or new programs. In the case of the Weatherization Assistance Program, GAO's bimonthly audits have tracked the program's obligation and spending status and have discussed the reasons for the program's slow spending rate and the steps being taken to address those issues. Specifically, we reported that states used only a small percentage of their available funds in 2009 primarily because state and local agencies needed time to develop the infrastructures required for managing the significant increase in weatherization funding and for ensuring compliance with Recovery Act requirements. For further information, see our latest bimonthly audit issued on March 3, 2010 (Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability, GAO-10-437).

RESPONSES OF PATRICIA A. DALTON TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. NHPA—You state in your testimony that the Michigan Department of Human Services told you that 90 percent of the homes scheduled to be weatherized under the Weatherization Assistance Program would need a historic review under the National Historic Preservation Act. Do you have similar statistics for any other states?

Answer. Other states did not provide estimates for the percentage of homes that would require historic reviews, and we did not specifically ask for this data. Michigan made particular mention of the percentage of homes affected because the requirements of the act affected such a large number of homes there.

Question 2. Status of Funds—According to your testimony, DOE has obligated approximately 70 percent of its funds, while expenditures amount to about 7 percent. How do those figures compare to the obligation and spendout rates at other federal agencies that GAO is tracking?

Answer. As of December 31, 2009, DOE's obligation rate for Recovery Act funds was in the bottom third of 27 federal agencies GAO is tracking, while its spending rate was next to last among those same agencies. However, the 54 percent of its funds that DOE had obligated at that time was just below the overall obligation rate

of 63 percent for all 27 federal agencies. In contrast, DOE had only spent 4 percent of its Recovery Act funds at that time compared to an overall Recovery Act spending rate of 20 percent. The table below shows the percentage of Recovery Act appropriations obligated and spent by federal agencies as of December 31, 2009.

Department or agency	Percentage obligated	Percentage spent
Agriculture	36%	28%
Commerce	20%	9%
Corporation for National and Community Service	83%	24%
Defense	52%	10%
Education	71%	31%
Energy	54%	4%
Environmental Protection Agency	98%	11%
Federal Communications Commission	87%	66%
General Services Administration	40%	7%
Health and Human Services	64%	15%
Homeland Security	51%	6%
Housing and Urban Development	84%	18%
Interior	41%	8%
Justice	99%	35%
Labor	79%	30%
National Aeronautics and Space Administration	59%	13%
National Endowment for the Arts	100%	38%
National Science Foundation	81%	3%
Small Business Administration	74%	35%
Smithsonian Institution	88%	33%
Social Security Administration	18%	18%
State	59%	9%
Transportation	68%	16%
Treasury	99%	99%
U.S. Agency for International Development	59%	20%
U.S. Army Corps of Engineers	61%	16%
Veterans Affairs	42%	6%
Total, Recovery Act Division A Appropriations	63%	20%

Source: GAO analysis of agency-provided data. See GAO, *Recovery Act: Project Selection and Starts Are Influenced by Certain Federal Requirements and Other Factors*, GAO-10-383 (Washington, D.C.: February 10, 2010).

Question 3. Weatherization—In your written testimony, you noted that GAO is currently working on a report that will detail weatherization-related jobs and energy savings. When will that report be released? Can you share anything about what you've found so far, and some of the difficulties that are apparently manifesting with regard to measuring energy savings?

Answer. The report titled *Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability* (GAO-10-437) was issued on March 3, 2010. It is the fifth in a series of reports by GAO on the use of and accountability for Recovery Act funds in selected states and localities; the next report in that series will be issued in May 2010.

As part of the March report, we examined recipient reporting associated with the Weatherization Assistance Program. We found that state reporting about impacts, especially energy savings, was still somewhat limited for the program's Recovery Act efforts. Available data showed that about 8,500 jobs had been created through the use of Recovery Act weatherization funds. However, while many local officials had collected data about new hires, none could provide us with data on energy savings.

Contributing to the lack of information about impacts is that most state and local agencies either were just beginning to use Recovery Act funds to weatherize homes or had not yet begun to do so. Some states told us they planned to use performance measures developed by DOE, while others had developed their own measures. For example, Florida officials told us they planned to measure energy savings by tracking kilowatts used before and after weatherization, primarily with information from utility companies.

Question 4. Wind Energy Grants—Just this week, four Democratic Senators sent a letter to the Obama Administration asking it to suspend the Treasury/Energy wind energy grant program until it can be amended. Has GAO looked at, or do you plan to look at, what's happening with this program and where its funds are going?

Answer. GAO has not previously and is not currently conducting work in this area.

RESPONSES OF MALCOLM WOOLF TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. You indicate you believe the problems that have led to delays have been largely overcome. Do you have an estimate of when you believe the current funding can be spent out?

Answer. We believe that the funding under the State Energy Program (SEP) and the other major grant programs impacting the states and local governments should be spent within the statutory deadlines created in the ARRA statute and the implementing rules from the Department of Energy.

Question 2. Now that capacity is built up and the state and federal levels, what are you seeing with regard to demand? Are there programs that you see as being particularly oversubscribed?

Answer. In general, the states have utilized a bidding process to determine what projects to fund within allowable categories. In the vast majority of cases all these categories have been over-subscribed. According to the survey prepared by the National Association of State Energy Officials (NASEO) in December 2009, some examples of this level of over-subscription are striking: a) AZ—104 school retrofit project applications totaling \$87 million were submitted, with funding for only one-half that amount; b) GA—\$226 million in requests were received for state facility retrofits, with only \$63 million in available funds and under SEP they received competitive proposals of \$122 million with only \$14.5 million available; c) IL—526 applications totaling \$525 million were received for only \$100 million in available funds (total project value was \$3.2 billion); d) MD—in my own state, the Clean Energy Economic Development Initiative received \$36.5 million in applications for only \$7 million in funding; e) MI—for projects in energy efficiency, wind, solar and local government energy efficiency, the state had \$39 million available and received applications totaling \$219 million; and f) WI—\$53 million in projects have been funded from approximately \$100 million in proposals. These activities include, but are not limited to, building retrofit projects in all sectors, industrial energy efficiency projects, renewable energy projects, local government energy projects, etc.

RESPONSES OF MALCOLM WOOLF TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. State Energy Programs—I appreciate the attachment you included with your testimony, which shows the amount of funding obligated or awarded to selected states. You testified that NASEO also keeps track of the actual expenditures in each state. Would you please provide those figures to the Committee?

Answer. State Energy Programs—We have generally tracked the funds committed by the states and the funds contracted by the states. We believe that DOE is tracking the actual expenditures by state. At this point, over \$1.1 billion is actually under contract and over \$2 billion is committed (i.e., obligated for specific projects and programs) by the states under the State Energy Program. As I explained in my testimony, the key statistics under SEP are not the federal “costing” numbers but the commitments and contracted numbers. This is important because when states commit and contract to implement projects with the private sector, the private sector hires the employees and conducts the work. States pay only when the project is completed (“accepted”) and shown to be implemented correctly, and when milestones are achieved. Neither the states nor the federal government generally pay for projects in advance of work being satisfactorily completed, for obvious reasons. As I stated in my testimony, the federal “costing” number is a lagging indicator and not reflective of the economic benefit of these projects. Further, if the “costing” number had escalated well in advance of projects being completed, this would be a sign that prudent procurement procedures are not being followed.

Question 2. Federal Guidance—Mr. Woolf, you stated in your written testimony that you were waiting on a determination by the Department of Labor on whether the wage rates for the Weatherization Assistance Program can be utilized for the residential efficiency programs planned under the State Energy Program and the Energy Efficiency Conservation Block Grants. Ms. Nellenbach stated that DOE has just received final word from the Department of Labor that this same rate wage in fact can NOT be used for EECBG and SEP. How much longer do you expect these wage rate determinations to take?

Answer. Federal Guidance—We hope that the guidance from the Department of Labor will be forthcoming as soon as possible. We believe that the Weatherization wage rate should be applied to residential energy efficiency retrofit projects under SEP and the Energy Efficiency and Conservation Block Grant (EECBG). Designated

residential energy efficiency retrofit projects under SEP and EECBG total over \$800 million. We understand that DOE has been working with DOL to resolve this critical issue.

Question 3. State Energy Office: Part of the reason that it has taken so long to spend the money is that state energy offices have had to “ramp up”—find office space, get new operations going, and of course, hire new staff. What will happen to these jobs when the Recovery Act expires in March 2012, or when the money runs out?

Answer. State Energy Office: Energy offices and states have utilized a variety of mechanisms to respond to the flow of new and expanded responsibilities under ARRA. New hires in many states have been on a contract or term basis, so that if the work is no longer there, the jobs will be eliminated. In light of state budget crises across the country, states have been reluctant to hire new people on a permanent basis. States are working very closely with the private sector to ensure that as the economy grows a trained energy work force is in place to respond. In addition, many states are utilizing revolving loan funds to ensure that the ARRA funds will be stretched to help more people and to help people over an extended period of time. Many of the proposals being considered by Congress in a possible Jobs Bill (Home Star, Building Star, Manufactured Housing, industrial energy efficiency, etc.) and other provisions included in S. 1462 (Bingaman-Murkowski energy bill, approved by the Energy and Natural Resources Committee in June 2009) as well as other comparable legislation, if funded, would provide resources to continue important work started utilizing ARRA funds.

Question 4. Maryland Weatherization—In Maryland, only 4 percent of homes selected for improvement have been finished. What is the outlook for spending the rest of this money? When do you expect all of Maryland’s Weatherization funds will be spent?

Answer. Maryland Weatherization—As of the end of March, Maryland has completed 10.5% of its 3-year ARRA weatherization production goal. Maryland has been building its capacity to do weatherization and has therefore been accelerating its pace of work and its spending of weatherization funds. Maryland expects to fully utilize the funding and anticipates completing production with this funding at the end of the grant period in March 2012.

Question 5. Weatherization—Has it been problematic that stimulus funds for Weatherization projects are not disbursed up front, but instead reimbursed after 45 days? Have there been problems obtaining credit to start any of these projects?

Answer. Weatherization—We are unaware of any widespread problems associated with the delay in reimbursements or the lack of available credit. The Low-Income Weatherization Assistance Program has historically operated on a reimbursement basis. The local community action agencies (CAAs) or other providers generally perform the work directly or contract out the work. Once the work is completed then the reimbursement from the state is requested. Obviously, there has been a significant ramp-up of funding under ARRA and some CAAs or other local providers might have had difficulty providing up-front funding. States have the authority under the program to provide cash advances to the CAAs and the other local providers.

RESPONSES OF MICHELE NELLENBACH TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. Despite the initial setbacks, it seems from your testimony that states see great potential for job creation this year. Many programs seem to be oversubscribed already. Do you have any sense of how the overall demand at the state level compares with amounts available?

Answer. The National Association of State Energy Officials conducted a brief survey in December 2009 and found that of the states that responded, all are oversubscribed. For instance, AZ received 104 applications worth \$87 million for school energy efficiency retrofits but can only fund half of the projects. Georgia received \$226 million worth of requests for just \$63 million in state facility retrofit funds. Further, Georgia has available \$13.3 million in EECBG funds but received applications totaling \$24 million. Illinois had only \$100 million to cover 526 SEP applications totaling over \$525 million. Finally, Wisconsin reports that it has over \$100 million worth of applications but can fund only \$53 million.

Question 2. Is your concern about reporting requirements more about the possibility that other agencies will require more or inconsistent reporting, or are the current requirements overly burdensome? Would a standardized reporting system across agencies solve the problem?

Answer. The NGA is concerned about both burden of the current requirements and the threat of future requirements. The current 1512 reporting requirements

have proven quite difficult to implement. While 1512 reporting is becoming less onerous as states become accustomed to it that will quickly change if every federal agency requires granular detail on each program. Specifically, such a development would further stress limited state resources and call into question whether the value of any additional information justifies the burdens placed on states.

NGA has advocated for universal reporting criteria along the lines of those contained in OMB's jobs guidance. If other federal agencies follow DOE's lead, NGA would support shared definitions and metrics. However, NGA is uncertain that such a commonality can be achieved. For instance, DOE's required metrics include square footage of buildings with new wind energy and the kilowatt hours saved in a home weatherization project. It seems unlikely that other Agencies will find value in such metrics. If common metrics were defined, NGA would recommend that any requirements for individual agency metrics not included in these common definitions be eliminated.

RESPONSES OF MICHELE NELLENBACH TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. State Energy Offices: Part of the reason that it has taken so long to spend the money is that state energy offices have had to "ramp up"—find office space, get new operations going, and of course, hire new staff. What will happen to these jobs when the Recovery Act expires in March 2012, or when the money runs out?

Answer. If funding levels return to their historical appropriations levels, as expected, then there will be a significant drop-off of services, and employment opportunities, by March 2012. This drop-off was documented by the Congressional Budget Office in a presentation to the Lieutenant Governors Association during which the CBO estimated that job growth will peak towards the middle of 2010 followed by a significant jobs drop-off in 2011 and subsequent years. (<http://www.cbo.gov/ftpdocs/113xx/doc11353/3-17-10-NLGA.pdf>)

Question 2. Weatherization—Has it been problematic that stimulus funds for Weatherization projects are not disbursed up front, but instead reimbursed after 45 days? Have there been problems obtaining credit to start any of these projects?

Answer. While the Ranking Member may be aware of anecdotal instances, NGA is unaware of either the wait for reimbursement or a lack of available credit as having created any widespread problems with the expenditure of ARRA Weatherization funds. As you know, the weatherization program has historically functioned on a reimbursement basis such that the local community action agency (LCAA) either performs the weatherization work itself or contracts for the work. Once the work is completed, the LCAA seeks reimbursement from the state for its expenditures. The only reason this system may be of concern under ARRA is because of the significant ramp-up in funding. Some community action agencies have not been able to front the costs without reimbursement. However in these instances, most states have used their authority under the weatherization program to provide cash advances to the LCAAs. Typically, the LCAAs are not using credit on the open market to fund their work and therefore, the tightness in the credit market has not been a factor in weatherization financing.

Question 3. Wage Rates—You stated that DOE has just received final word from the Department of Labor that this same rate wage in fact can NOT be used for EECBG and SEP. Have you received any indication of when states will receive guidance for those programs?

Answer. As of April 7, 2010, the DOE is continuing to negotiate with the DOL on allowing the wage rate for WAP to be used for residential projects funded through EECBG and SEP. I have been told an official announcement is imminent.

RESPONSES OF MATT ROGERS TO QUESTIONS FROM SENATOR BINGAMAN

Question 1. Your testimony indicates a fairly dramatic acceleration in obligations and spending in recent months. Are you on target to have the Recovery Act funds obligated by the end of this fiscal year? Are there any specific programs where you have seen demand from quality applicants beyond the funds available, such that you could reasonably expect to spend additional funds well?

Answer. By the end of September, the Department of Energy plans to have obligated 100 percent of its \$32.7 billion in appropriated Recovery Act contract and grant authority. We are currently on track to hit this target. The Fossil Energy Programs will be the last to meet their target. DOE officials are working closely with these applicants to review all technical, financial and management plans and to take action early if intervention is needed. A decision will likely be made in May if funds should be re-allocated to other projects. DOE anticipates that the remaining

loan credit subsidy funding will be obligated as loans close before September 30th, 2011, when the ARRA budget authority expires.

The selection process for DOE Recovery Act funds was highly competitive. High demand from quality applicants in some programs allowed us to select consistently strong projects, ensuring the American public receives solid returns on the investment of hard earned taxpayer funds. We saw especially high demand from quality applicants in the following programs: ARPA-e, Small Business Innovation Research, Smart Grid, and Industrial Energy Efficiency.

We have the greatest opportunity to use further funds in the 48c manufacturing tax credits program, and the FY2011 Budget includes a request for an additional \$5 billion for this program. Recovery Act manufacturing tax credits were awarded to 183 projects in 43 states, (though numbers are being revised based on the March 15 IRS contracting deadline). Facilities must manufacture: equipment or components designed for use in projects that produce energy from the sun, wind, geothermal deposits or other renewable resources; nuclear power; fuel cells, microturbines, energy storage systems for EVs or HEVs; electric grids, grid storage; property designed to capture and sequester carbon dioxide; property designed to refine or blend renewable fuels; property designed to produce energy conservation technologies; plug-in electric drive motor vehicles or components or; other property designed to reduce greenhouse gas emissions as may be determined by Treasury. The 48C tax credits do not apply to production of electricity or fuel.

Despite a narrow time frame to apply for the program, the 48c program saw many high quality applicants, indicating the importance and relevance of such a tax credit. The additional \$5 billion requested in the Budget will provide the opportunity to fund those quality projects that were not selected in the initial \$2.3 billion, as well as reaching out to new applicants with a broader technology representation.

The higher than expected response of applications indicates that the stimulus has provided confidence for American manufacturers to plan capital expenditures in FY10 and to anticipate a tax liability.

Question 2. I understand the Southern Company has returned nearly \$300 million in committed funds for CCS. Do you have a process in place or a schedule for awarding those funds to a new applicant?

Answer. Yes, on March 9th, Secretary Chu announced that a project with NRG Energy has been selected to receive up to \$154 million, including funding from the American Recovery and Reinvestment Act. Located in Thompsons, TX, the post-combustion capture and sequestration project will demonstrate advanced technology to reduce emissions of the greenhouse gas carbon dioxide. It will also assist with enhanced oil recovery efforts from a nearby oil field.

The NRG Energy project was selected under the third round of the Clean Coal Power Initiative (CCPI), a cost-shared collaboration between the federal government and private industry to demonstrate low-emission carbon capture and storage technologies in advanced coal-based, power generation. The goal of CCPI is to accelerate the readiness of advanced coal technologies for commercial deployment, ensuring that the United States has clean, reliable, and affordable electricity and power.

NRG will construct a 60 megawatt carbon capture demonstration facility at the company's W.A. Parish Unit 7 in Thompsons, Texas. The 6-year project will demonstrate an innovative integration of several important advances in carbon capture and sequestration technologies, including-

- Fluor's advanced Econamine FG PlusSM carbon capture process, using several different novel amine solvents.
- Ramgen's advanced carbon dioxide compression system.
- The integration of highly efficient co-generation to provide the necessary steam and electricity.
- Enhanced oil recovery sequestration in one of the Texas Gulf Coast oilfields near the Parish plant.

The project will demonstrate post-combustion carbon capture technology applied to an existing plant that could significantly reduce the cost of mitigating greenhouse gas emissions.

RESPONSES OF MATT ROGERS TO QUESTIONS FROM SENATOR MURKOWSKI

Question 1. Cash-for-Appliances.—Why has the appliance rebate program been delayed for so long? The President is advocating a new rebate program called Home Star with a similar objective—to encourage people to upgrade the efficiency in their homes and receive rebates. If it took a year for the appliance rebate program to get up and running, why should we think it would be any different for Home Star, which is arguably a more complicated program?

Answer. The State Energy Efficiency Appliance Rebate Program provides funds to states and territories who then design, and administer their own state rebate programs. This leads to different state programs offering appliance rebates at different times in the year. April is the peak month for appliance rebates so we should see costing soon. HOMESTAR would provide rebates directly to consumers at the point of sale through a federally administered program.

The State Energy Efficiency Appliance Rebate Program provided nearly \$300 million in funding from the American Recovery and Reinvestment Act for state-run rebate programs for consumer purchases of new ENERGY STAR® qualified home appliances. Congress specified that the funding was to be awarded to states and territories, through their energy offices, using a formula set forth in the Energy Policy Act of 2005. Each state or territory was required to submit a plan that specifies which ENERGY STAR® appliance categories will be included in their rebate program, the rebate level for each product type, how the rebates will be processed, and their plan for recycling old appliances. Many states had no experience launching an appliance rebate program. It took time for the states to design and develop individual plans and start the programs within their states.

In contrast, consumers would be eligible for direct HOMESTAR rebates at the point of sale for a variety of energy-saving investments in their homes, like the Cash for Clunkers program. A broad array of vendors, from small independent building material dealers, large national home improvement chains, energy efficiency installation professionals and utility energy efficiency programs (including rural utilities) would market the rebates, provide them directly to consumers and, then the vendors would be reimbursed by the federal government. Unlike the State Energy Efficiency Appliance Rebate Program, the broad array of vendors would be able to offer these point-of-sale rebates 30-days after the legislation is passed.

Question 2. Spend-Out: DOE has spent just over seven percent of its stimulus funding in the past twelve and a half months, and in your testimony, you note that spending will accelerate this year.

a. What do you expect the spend out rate will be six months from now?

Answer. DOE has selected recipients for \$32 billion of is \$32.7 billion in grant and contract authority and we have obligated \$26.5 billion to our recipients. At the DOE level the money has been spent through the obligation process allowing hiring to begin and projects to start. We will reimburse recipients as they spend out the money. We have now outlaid almost \$4 billion. By the end of this fiscal year, DOE currently expects to reach an average spend rate of \$800-900 million per month. This spring, Program Offices developed updated payment plans based on recipient, and project level spend projections to improve our accuracy on spend rate projections. Based on this updated information we should be at a total of \$8 billion in payments by the end of this fiscal year.

Question 2b. How about the end of calendar year 2010?

Answer. By the end of this calendar year, DOE expects to be incurring outlays an average of \$1 billion a month. Based on revised spend plans we should be at over \$11 billion in payments by the end of the calendar year.

Question 2c. How long do you think it will take for 100 percent of DOE's ARRA funds to be spent?

Answer. DOE Recovery Act appropriations are funding 144 projects in 10 different program offices (e.g., Energy Efficiency, Fossil Energy, Science, etc.). Each of these projects has a unique structure and time horizon for the deployment of these funds (i.e., R&D vs. infrastructure investment). For example, DOE's Office of Environmental Management has allocated nearly \$6 billion in Recovery Act funding to 17 sites with a goal to complete their work by the end of FY11. Large scale, heavy infrastructure projects in the Fossil Energy program require extensive design and construction stages that will take their Recovery Act spending out until FY14. As an agency, DOE expects to spend 70 percent of its ARRA funds by the end of CY2011, nearly 90 percent by CY2012, and 100 percent by CY2015.

Question 3. PACE.—You state that you are “ahead of where we expected to be on selection, obligations, and job creation.” Can you tell us where you expected to be, or what benchmarks the Department had set for itself, that you based that statement on?

Answer. By December 31, 2009, we had selected projects to receive \$31 billion of DOE's \$32.7 billion in ARRA contract and grant authority and obligated \$23.3 billion. This surpassed our CY 2009 targets of \$30 billion in selections and \$22.8 billion in obligations. As of the end of the calendar year, our recipients had outlaid nearly \$1.8 billion in ARRA funds (falling short of our target of \$3 billion). Based

on recipient reporting, DOE funded over 20,000 jobs¹ between October-December 2009. This is ahead of pace based on the Council of Economic Advisers' estimate that \$92,136 in spending creates one job-year as \$1.8 billion dollars outlaid would result in 19,500 jobs created or saved.

Question 4. Alaska Spending.—According to the data on DOE's website, which is dated November 20, 2009, a total of \$93 million had been announced for my home state of Alaska, but just \$50,000 had actually been spent. Over the course of the first nine months of the stimulus, that amounts to less than \$200 per day.

a. Can you provide any updated figures for DOE's spendout in Alaska?

Answer.

Alaska- ARRA Program	Obligation	Outlay
State Energy Program	\$28,232,000	\$0
EE Conservation Block Grant	\$23,929,900	\$707,954
Weatherization	\$18,142,580	\$0
Geothermal Demonstrations	\$12,376,568	\$0
Validation of Innovative Exploration Technologies	\$4,616,879	\$0
EGS Technology R&D	\$2,154,238	\$0
State Assistance on Electricity Policies	\$767,493	\$0
Appliance	\$658,000	\$0
Geologic Sequestration Training and Research Grant Program	\$299,762	\$0
Enhancing State and Local Governments Energy Assurance	\$262,969	\$0
Total	\$91,440,389	\$707,954

Question 4b. Can you explain why it is taking so long for funds announced for, and awarded to, communities in Alaska to be spent?

Answer. The following will address spending for individual projects in Alaska:

State Energy Program (SEP).—The State of Alaska submitted a SEP plan under the previous gubernatorial leadership in May 2009. After a change in gubernatorial leadership and a re-commitment to Recovery Act programs, Alaska modified and re-submitted their SEP plan in October 2009. Over the next 2 months DOE worked very closely with Alaska to develop a plan that could expeditiously navigate the DOE procurement process. Alaska's plan was approved and they were awarded the SEP grant on January 12, 2010. The state used a DOE-created NEPA template in designing their programs which allowed DOE to also categorically exclude all project activities from further NEPA review in early January 2010, clearing a major hurdle that could have potentially slowed spending.

The majority of project activities that Alaska is pursuing with SEP Recovery Act funds are an expansion of existing programs and/or programs that will be receiving significantly more state funds should Alaska Senate Bill 220 (Omnibus Energy Bill) be passed in the state legislature. It is our understanding that over the past couple months Alaska has been in the process of negotiating memorandums of understanding with other agencies. However, it is our understanding that much of the SEP funded programs are awaiting passage of SB 220 to become operational and formalized. SB 220 was recently referred out of the state Energy committee to the Finance committee, but will continue to cause a delay for some of the SEP funded programs (approx. \$19.1mm or 68% of SEP funds are tied to SB 220).

DOE is holding weekly calls between state energy offices and DOE project officers. In addition, DOE Assistant Secretary Zoi, Mike Nizich (AK Chief of Staff) and

¹ Over 16,300 full-time equivalents (FTEs) were reported to Federalreporting.gov by recipient. Contractors reported another 4,000 FTEs at the subcontractor level (not required to report to FederalReporting.gov).

Susan Bell (Special Assistant to the Governor) spoke on January 19th to discuss measures for increasing Alaska's spending of SEP funds.

Energy Efficient Conservation Block Grants (EECBG).—With over 2,300 recipients, no two grantees have had the exact same issues to resolve with the EECBG process. The entire program was set up this year and most grantees had not worked with DOE before and many had never developed comprehensive energy efficiency plans in the past. There have been several common issues which have led to delays in processing EECBG funds including NEPA reviews, Davis-Bacon, Historic Preservation, and Buy American.

Alaska has presented a unique challenge for the processing of EECBG grant funds. Of the 255 grant recipients, 10 are cities and towns, 9 are counties and 236 are tribal grantees. The two largest recipients were the State Energy Office which received \$9 million in order to provide grants and the City of Anchorage which received \$2.6 million. Many of the tribes have opted to pool their resources in order to provide wider-ranging benefits since many of the grants are in the \$50,000.00 range. DOE has committed resources to work directly with the Tribal Community to address these needs.

Weatherization Assistance Program (WAP).—Alaska usually plans work a year ahead. Due to the extreme climate, most production takes place during the short summer season. Home assessments are done in the summer so that materials can be ordered over the winter months. Materials need to be barged or flown to rural villages after the spring thaw, and work is completed during the following summer. State has been training local public housing authority staff over the past several months to perform weatherization services. State and local agencies already staffed up in 2008-2009 utilizing the influx of State funds for Weatherization. In November, Alaska trained 40 staff to be EPA Certified Renovators (a new program requirement), and two agencies are in the process of being designated as EPA training entities. Alaska network already has the capacity to complete 1,700 homes per year. This was accomplished in the 2008-2009 program year combining State, DOE, and HHS funds. Alaska plans to exceed that number in the current year and next year, but is waiting for the summer to begin work.

Appliance Rebate Program.—AK's State Energy Efficient Appliance Rebate Program (SEEARP) went live on March 15th. Of the 56 SEEARP programs, it was the 17th to launch. Alaska's program is unique in that it targets disabled residents while providing higher rebates to such residents in rural areas. This program targets the funds at a small percentage of the population to lower the price-premium on efficient appliances that otherwise may be too expensive for them but will provide them ongoing savings on their energy bills. As of March 31st, 86 vouchers have been requested but no vouchers have been redeemed as residents have 120 days to make their purchase and submit the paperwork after having received a voucher. Now that the program has begun in earnest we expect outlays to ramp up over the course of the spring and summer.

Grid Formula Grants.—The State of Alaska has received two formula grants under the Recovery Act program managed by the Office of Electricity Reliability and Energy Assurance. Under both grants the State of Alaska is responsible for the expenditure of the funds consistent with the programs objectives. No grant funds have been spent by the State as of this date.

On December 7, 2009, the Alaska Department of Commerce, Community & Economic Development, received \$767,493 in discretionary grant funding under the State Assistance on Electricity Policy program.

On August 14, 2009 the Alaska Housing and Finance Corporation received \$262,969 in discretionary grant funding under the Enhancing State and Local Governments Energy Assurance program.

Competitive Grants.—Nearly \$19.5 million was awarded through a competitive selection process that took place in late Fall/early Winter 2009. Alaska received four competitive Recovery Act grants for geothermal and fossil energy projects. These projects have faced a series of reviews before reaching full award, ranging from NEPA determination to property right negotiations.

Question 5. Smart Grid.—Recently, DOE reversed its position on the applicability of Buy American requirements for smart meters, and now have ruled that smart meters are not "Manufactured Products"—meaning Buy American provisions don't apply. At the same time, EPA has ruled that water meters are "Manufactured Products" so Buy American does apply. Why is the Administration treating these products inconsistently? What happened to promoting the manufacturing of smart meters in the U.S.?

Answer. After an extensive legal analysis taking into account the specific facts presented by DOE's Office of Electricity Delivery and Reliability, DOE's Office of the General Counsel concluded in early February 2010 that smart meters were not sub-

ject to the Buy American requirements of the Recovery Act. This was the only determination by the Department regarding the applicability of Buy American to smart meters and did not reverse a previous finding.

The Department's analysis considered the context of an upgrade of a mechanical electricity meter with a smart meter by a utility on a pre-existing privately-owned property, and determined neither the "manufactured good" nor the "construction, alteration, maintenance or repair" prongs of the three-part test under Section 1605 of the Recovery Act were met. Even though all three prongs must be met for applicability of the Buy American requirements, DOE lawyers also considered the third prong, "public building or public work," and determined it too would not be implicated unless the installation was performed on government-owned "public buildings" or possibly on buildings/structures that, although privately owned, had a governmental use or significant governmental involvement. Consequently, without any additional governmental ties to a particular building/structure, DOE determined that the "Buy American" statutory requirements were not generally applicable to public utilities when installing smart meters on privately-owned buildings.

Three weeks after DOE reached its legal conclusion, EPA published notice that it had issued a waiver of the Buy American requirements of the Recovery Act for certain water meters to be purchased by a governmental entity for installation in heated spaces, on the grounds that American meters were unavailable for this specific purpose. The consequence of this waiver is that the Buy American requirements of the Recovery Act do not apply so both DOE and EPA actions have the same result. We are not aware of EPA's internal analysis of this question or of the specific facts underlying its decision, and thus are not in a position to compare the two actions.

Question 6. Smart Grid—How is the Energy Department coordinating with its contracting offices on smart grid monies? We've heard complaints that the different contract offices lack consistent policies making it difficult for industry to understand the rules.

Answer. The two largest programs associated with smart grid are the Investment Grant (\$3.4B) and Demonstration Grant (\$620M) programs. As the program office responsible for both programs, the Office of Electricity's oversight has ensured consistent application of policies while respecting the difference between the programs.

Each program has unique requirements which were set out in the Funding Opportunity Announcements. In addition the timing of the two programs has been different. The Investment Grant selections were announced on October 27, 2009, and the Demonstration Grant selections were announced on November 24, 2009, which has resulted in schedule differences which may account for perceived inconsistencies. Also the investment grants are focused on technology deployment while the demonstrations are focused on a technical demonstration.

Question 7. Loan Guarantees—According to DOE's website, you've so far closed one loan under the temporary loan guarantee program, and made a few small conditional commitments. More than \$32 billion in additional authority for renewable energy projects remains under that program. DOE has also requested credit subsidy for an additional \$3-5 billion in loan guarantees in this year's budget request.

a. Can you shed any light on how you expect loan guarantees to be distributed over the next year?

Answer. Since issuing its first conditional commitment in March 2009 to an innovative photovoltaic manufacturing company, the Loan Guarantee Program has closed that loan guarantee and issued conditional commitments for seven additional projects, four of which are eligible to receive appropriated credit subsidy under the Recovery Act. The Loan Guarantee Program has offered commitments to a diverse portfolio of alternative energy projects including wind turbine manufacturing, solar generation and manufacturing, electricity storage, nuclear power, and energy efficiency. In the next year, new conditional commitments and closings will continue to reflect this diversity of projects. The Department's 2011 budget request for \$500 million in appropriated credit subsidy is important to the program's ability to support innovative energy efficiency and renewable energy projects.

b. How long do you think it will take DOE to exhaust its current authority for the 1705 program?

Answer. The Loan Guarantee Program has a robust pipeline of projects eligible for both appropriated credit subsidy under the Recovery Act and able to meet the Recovery Act requirement to begin construction by September 30, 2011. In addition, the Loan Guarantee Program has two open solicitations and continues to receive applications from eligible projects. These solicitations will remain open to new applications until August 24, 2010, and January 6, 2011, respectively. These efforts, in addition to potential future solicitations, are aimed at exhausting the current authority by September 30, 2011.

Question 8. Weatherization—According to a memo released last month by DOE’s Inspector General, “it appears likely that pressure will increase to accelerate the weatherization of residences in the compressed statutory timeframe available under the Recovery Act. In a situation like this, our concern is that the understandable desire to spend the Weatherization funds on a catch-up basis may lead to an environment conducive to wasteful, inefficient, and, perhaps even abusive practices.”

a. Do you agree with the IG’s assessment?

Answer. We are working with each community to reach a target run rate to ensure each can deliver on their full authority with consistent quality. Good operations tend to perform consistently in a target performance band—not too hot and not too cold. We are watching closely to make sure that each recipient remains within appropriate target performance band. Quality control has always been a strong component of the Weatherization Assistance Program; measured against the level of funding and number of homes being weatherized, the proportion of problems found on an annual basis has always been insignificant. DOE expects this record of compliance and achievement to continue under the Recovery Act.

b. What steps is DOE taking to ensure this does not come to pass?

Answer. Increased monitoring, quality assurance, and desk monitoring have been and continue to be implemented by DOE. Several staff persons have been added and the engagement of additional contractors to conduct oversight activities is being considered. Furthermore, beginning in April for the month of March we will move from quarterly to monthly reporting for this program. This will greatly support our efforts to ensure that these funds are both spent quickly and wisely as will be ability to provide states that are struggling to meet their goals with training and technical assistance.

Question 9. Weatherization—The Weatherization program has indicated that there are over 38 million households whose income levels make them eligible for Weatherization services, The Department estimates that approximately 15 million homes are good candidates for cost-effective Weatherization. How many of these 15 million homes have been weatherized? What is the process to determine how to address the remaining eligible homes?

Answer. More than 6.3 million homes have been weatherized since the program’s inception. The process to determine how to address the remaining eligible homes allows for grantees and local agencies to target their services to maximize program effectiveness. In prioritizing weatherization assistance grantees are to include consideration of “high residential energy users” and “households with a high energy burden.” However, the weatherization of such units is not mandatory. Consideration of such units may be used in lieu of, or in any combination with, the other priority categories of elderly, persons with disabilities, or families with children. By considering “high residential energy users” and “households with a high energy burden,” grantees and local agencies should be better able to partner with utilities and other programs to leverage additional resources into their programs.

Question 10. Weatherization—I’ve seen several different numbers, so I’ll ask you to state for the record: how many homes were retrofitted during the first year of the stimulus, and what was the average federal cost to weatherize each of those homes? How do you determine what type of retrofit is needed with each home?

Answer. Weatherization Assistance Program grantees weatherized 30,252 homes with Recovery Act funds through December 31st, 2009. Information about weatherization production in the first quarter of 2010 is still forthcoming as the reporting deadline for performance figures in the first quarter is not until April 30th. DOE projects, when reported, weatherization performance in the first quarter of 2010 will represent a significant increase in production rate. While some reports are still being verified, recipient data shows that 13,053 units were completed in January, 18,234 units were completed in February, and 22,311 units were completed in March.

In 2009, states weatherized more than 125,000 homes in total (including both recovery and non-recovery work). As states ramped up and prepared to spend Recovery Act funding—by hiring and training workers, purchasing equipment, and putting in place strong accountability and transparency measures—they accelerated the number of homes weatherized with Fiscal Year 2009 funding; making the combined total the best indicator of progress in the program. Nevertheless, the pace of Recovery Act funded weatherization tripled in the last three months of the year.

The average estimated federal cost to weatherize a home during the Recovery Act, as estimated by grantees, is \$5600. The average actual federal cost to date is artificially inflated as most grantees have made large upfront outlays on equipment that will be used over the next few several years.

To determine the most cost-effective measures appropriate for each home, weatherization crews use computerized energy audits and diagnostic equipment, such as

a blower door, manometer, or infrared camera. Typical measures include installing insulation in walls, floors, and attics; reducing air infiltration and pressure imbalances; sealing and repairing ducts; and, tuning and repairing heating and cooling units.

Crews use DOE funds to install only those energy-efficiency measures that meet a savings-to-investment ratio of 1:1 and above. DOE funds can be used to address energy-related health and safety problems, or to perform incidental repairs. This approach ensures the program's cost effectiveness.

Weatherization crews also perform health and safety tests that may include: testing heating units and appliances for combustion safety, carbon monoxide, and gas leaks; assessing moisture damage; checking electrical system safety; replacing unsafe heating and cooling systems; and installing smoke and carbon monoxide detectors.

Question 11. Staff Capacity—Will you provide the Committee with the number of new employees that DOE has hired in order to administer ARRA funds? Can you comment on what will happen to those individuals' jobs after the stimulus' obligation deadline passes?

Answer. According to the Office of Human Capital Management, DOE currently has 354 employees who have been hired to focus specifically on implementing the Recovery Act, with many more existing staff working hard to implement Recovery Act funding alongside their standard duties. Many of these employees are working in one of DOE's many field offices including states such as OH, PA, CO, TN, and WA, with over 150 at NETL and Golden. Some of these employees are on term appointments set to expire by September 30th, 2012, at the very latest. Others were hired to permanent positions whose employment will be terminated by September 30th, 2012, at the very latest if their positions are funded by the Recovery Act. Depending on the program in which they work, we expect many Recovery Act dedicated employees to begin to leave the federal workforce in the fall of 2010 continuing through September 30th, 2012.

Question 12. Solar Energy—According to a recent news report, the solar industry is worried that its "large-scale projects will miss a 2010 construction deadline to receive cash grants" available under the stimulus.

a. Are any of these projects being held up due to requirements imposed through the stimulus bill?

Answer. The 1603 program does not impose NEPA or Buy America requirements. However, all need to meet state permitting and zoning requirements and many need Bureau of Land Management permits. The volume of permit request is straining state resources. We do not believe there is anything in the program that is delaying or holding up projects. The program is funding grant requests within the 60-day window from receiving a completed application as mandated by the statute.

b. Given that this funding was intended as stimulus spending, is it still the Department's position that the 2010 deadline should remain in place, instead of being extended to a later date?

Answer. The Department is aware of interest in extending the deadline for commencing construction (by the end of 2010) and is considering the pros and cons of an extension. It is certainly possible that, due to factors outside the ambit of the 1603 program and the Recovery Act, large-scale solar projects may not be able to commence construction by the end of this year, but given the stimulative focus this deadline can press the projects to get the shovels in the ground.

Question 13. Solar Energy: Exactly how much federal funding has the solar industry received from the stimulus? How many domestic jobs has that created? Are those jobs manufacturing jobs or temporary construction work? How many overseas jobs did solar funding from the stimulus bill create?

Answer. More than \$1.5 billion in Recovery Act funding has been provided to support solar energy, along with over \$1.9 billion in closed loan guarantees and conditional commitments for loan guarantees. That includes:

48C manufacturing tax credits: Solar was by far the largest category of applications received for the Section 48C advanced energy manufacturing tax credits and was the largest category of awards announced, followed by wind. Out of the 183 projects receiving \$2.3 billion of tax credits, 62 solar projects were selected to receive nearly \$1.2 billion of tax credits, meaning solar received one-third of the awards for more than half the total dollar amount of tax credits. The high level of solar applications is one leading indicator that U.S. solar manufacturing is poised to grow dramatically in the coming years.

1603 renewables grants: To date, this program has funded over \$140 million to more than 350 rooftop solar PV and solar thermal installations. That is more than three-quarters of the projects receiving funding under the 1603 program, although

because they are small projects it amounts to only 5% of the \$2.75 billion funded overall under the 1603 program.

Loan guarantees: \$535M loan guarantee for Solyndra's CIGS thin-film manufacturing facility in Fremont, CA, now under construction. Solyndra estimates the new plant is creating 3,000 U.S. construction and supply chain jobs, and may lead to as many as 1,000 U.S. jobs once the facility opens. Solyndra also estimates that more jobs will be created installing Solyndra's solar modules on rooftops around the country. In addition, DOE has approved a \$1.37B conditional loan guarantee to BrightSource Energy to build a 392 MW solar thermal power plant in Ivanpah, California. BrightSource estimates that this project will create 1,000 construction jobs and 86 ongoing operating and maintenance jobs.

R&D grants: DOE is providing \$168 million of ARRA funds for basic R&D funding for solar and \$74 million for advanced R&D or pilot funding for solar.

Question 14. Buy American—GAO's recent reports indicate that DOE believes the "Buy American" requirements of the stimulus could hamper the agency's efforts to spend their ARRA funds.

a. Which programs would these requirements affect?

Answer. The Buy American requirements of the Recovery Act affect all DOE Recovery Act-funded programs. However, to date, the Office of Energy Efficiency & Renewable Energy (EERE) programs have generated the majority of issues and questions concerning compliance with the Buy American requirements. In particular, Energy Efficiency and Conservation Block Grants (EECBG) and the State Energy Program (SEP) have been the source of many inquiries.

b. Has DOE issued guidance for the "Buy American" requirements so far?

Answer. Yes. DOE has issued agency-wide guidance for the Recovery Act, including the Buy American requirements, in its "Department of Energy Acquisition and Financial Assistance Guide for the American Recovery and Reinvestment Act of 2009," <http://management.energy.gov/policyguidance/1672.htm>. Section 3.9 (p. 3-7) explains the Recovery Act Buy American requirements in general. Additional, specific information is provided in two attachments to that guidance document, Attachment 10—"Buy American Issues in the Recovery Act for Financial Assistance Agreements," and Attachment 13—"Recovery Act Buy American Act Requirements for Information Needed From Financial Assistance Applicants/Recipients for Waiver Requests Based on Unreasonable Cost or Non-Availability." These are detailed explanations of what the Buy American requirements mean, how they apply, and how to request waivers of the Buy American requirements based on unreasonable cost or non-availability.

EERE also has created a web page entitled, "Buy American Guidance," http://www.eere.energy.gov/recovery/buy_american_provision.html. This web page explains the Buy American requirements, contains the waivers EERE has issued to date (Nationwide Limited Public Interest Waiver for LED Lighting and HVAC Units; and Nationwide Categorical Waivers for Electronic Ballasts, LED Traffic Lights, and Compact Fluorescent Lights) as well as additional information including "Guidance on the Buy American Provisions as Applied to EERE Projects funded by ARRA," "Instructions for Waiver Requests," and "Frequently Asked Questions about the Buy American Provision."

Also on the EERE "Buy American Guidance" web page is EERE's Request for Information (RFI) on questions pertaining to the Buy American Provisions of the Recovery Act that was published in the Federal Register. 75 Fed. Reg. 5783, 5784 (Feb. 4, 2010). The RFI requests two categories of information from stakeholders. Part 1 requests technical information from stakeholders seeking to ascertain the availability of manufactured goods produced in the United States that are needed to carry out projects funded by EERE. Part 2 requests information on questions pertaining to the application and implementation (programmatic questions) of the Buy American provisions in Recovery Act projects funded by EERE. The products and technical specifications submitted in response to Part 1 will be catalogued and disseminated to the domestic manufacturing community in order to ascertain the domestic manufacturing capacity for these products before EERE considers issuing any waivers based on non-availability. Submissions in response to Part 2 (programmatic questions) are addressed by designated program staff.

c. What is your agency doing to make sure those delays are minimized?

Answer. EERE has designated a Buy American Coordinator whose responsibilities are to disseminate information to stakeholders, obtain feedback, and work with various program and staff and support offices within DOE to resolve issues. EERE also has established an e-mail box, buyamerican@ee.doe.gov, to receive inquiries and issue responses.

The DOE General Counsel's office operates an email hotline for legal questions related to the Recovery Act, including the State Energy Program, (SEP), Energy Ef-

efficiency Conservation Block Grant (EECBG) and Weatherization Assistance Program (WAP), GCHotline FAQ Answers to Legal Questions Related to the Recovery Act, <http://www.gc.energy.gov/GCHotlineFAQ>. Typically, Recipients who submit questions to the GCHotline are given individual responses tailored to their factual descriptions. Responses that are of general interest are posted as FAQs. The FAQ section includes a “Buy American” category. In addition, the Office of General Counsel holds a monthly call with state energy offices to answer questions concerning the EECBG, SEP, and WAP programs; some of the questions raised initially concerned Buy American. In the two most recent monthly calls, no questions concerning Buy America have been raised.

DOE’s Recovery Act website, <http://www.eergy.gov/recovery/index.htm>, has a link to the Buy American Guidance on the EERE web page. It also features the DOE Recovery Act Clearinghouse, with a toll free number that operates Monday through Friday, 9 am. to 7 p.m. EDT, which provides information on popular topics, including the Buy American requirements, and a link to the web address that accepts email inquiries.

Question 15. Job Creation—You state that 2 million jobs have been created or saved thanks to ARRA’s impact on hiring in the private sector, by local and state governments and by non-profits. How many jobs has the stimulus created in the private sector, as compared to within government?

Answer. On April 14, 2010, the Council of Economic Advisers estimated that by the end of the fourth quarter 2009 ARRA had raised employment by 1Y2—2 million jobs relative to what it otherwise would have been. This figure was based on a macroeconomic model and a statistical model computed by the CEA. Specific data on the number of jobs created by the stimulus in the private vs. public sector would be available through CEA. These approaches do not allow a detailed breakdown by industry. Source: <http://www.whitehouse.gov/sites/default/files/microsites/CEA-3rd-arr-report.pdf>

RESPONSE OF MATT ROGERS TO QUESTIONS FROM SENATOR SHAHEEN

We’re very proud of the investments made in clean energy under the ARRA bill. These funds are helping to make efficiency improvements and deploy clean energy technologies across the country, including New Hampshire. I believe the ARRA bill was an important down payment in helping to get our country running on clean energy.

As you may know, NH’s electric cooperative, like many of our country’s electric cooperatives, was awarded two smart grid grants by DOE. I had the opportunity to visit the NH electric co-op last month and learn first-hand about their efforts to modernize their electricity system. The DOE smart grid grants are a critical part of that larger effort.

However, concerns have been raised by New Hampshire’s Electric Cooperative and other electric cooperatives through the National Rural Electric Cooperative Association (NRECA) regarding possible tax issues surrounding the acceptance of DOE smart grid grants under ARRA.

It’s my understanding that the Treasury Department may view these grants as taxable income; which, if accepted, could affect the tax status of many of the country’s rural electric status, including the New Hampshire electric cooperative. This is having a chilling effect on many of the clean energy projects our countries electric co-operatives are working on. It could result in our co-ops having to turn down the ARRA grants.

This was clearly not the intent of Congress, in my view, to prevent our electric cooperatives from participating in these important DOE programs funded through ARRA.

Question 1. I am told that progress is being made between DOE and Treasury to address this issue. Can you provide me with an update on that status of DOE and Treasury to address this issue?

Question 2. Do you believe that you will be able to address this issue in a timely manner in order to address the concerns that the electric co-ops have raised?

Question 3. When do you think a resolution to this issue will be made?

Question 4. What would happen to the DOE Smart Grid program should these grants become taxable?

Question 5. Is there anything Congress needs to do to address this issue, or do you think Treasury and DOE can work it out?

Answer. On March 10th, The Department of Treasury and the Department of Energy announced new guidance on the tax treatment for grantees receiving Recovery Act funding under the \$3.4 billion Smart Grid Investment Grant program. Under the guidance released, the Internal Revenue Service is providing a safe harbor

under section 118(a) of the Internal Revenue Code for corporations receiving funding under the program.

With the determination that Smart Grid Investment Grants to corporations are nontaxable, corporate utilities will be able to launch their investments with a clear indication of the tax status for their projects. This decision has allowed the Department of Energy to move forward quickly to finalize many grant agreements in the past several weeks. We continue to work with Treasury to evaluate the Smart Grid Demonstration Program grants.

RESPONSES OF MATT ROGERS TO QUESTIONS FROM SENATOR WYDEN

Question 1. Wave Energy—Europe has spent upwards of \$100 million developing a wave energy research facility in Scotland, while the U.S. Government has committed just a few million dollars to developing a similar capacity at two Marine Energy Centers in Hawaii and Oregon. The U.S. is literally being left high and dry in developing this technology. The President's FY2010 budget stated that FY2010 funding for the Water Power Program "complement funds provided by the Recovery Act." Despite the commitment in the President's budget and requests from both the House and the Senate, the Department hasn't provided any funds for these technologies under the Recovery Act. To add insult to injury, the FY2011 budget would cut funding in the marine-hydrokinetic research program from the amount that Congress gave you to spend in FY 2010 to less than \$20 million dollars a year. What is the justification for ignoring the President's FY2010 budget and refusing to provide ARRA funding for this research area, especially in light of the significant sums being devoted to these technologies by other countries?

Answer. Based on Marine Hydrokinetic (MHK) technology development levels and the amounts of open water testing and demonstration that have taken place thus far, it was determined that no devices were immediately suitable for commercial-scale deployment, and could best meet the Recovery Act's goals of increased energy generation and rapid economic stimulus. The FY 2011 request is \$40 million, a \$10 million (19 percent) decrease from FY 2010 enacted levels. This amount will be sufficient to continue and build upon activities started in FY 2010, as well as to begin to support the development of cost-effective incremental hydropower opportunities identified in 2010. FY 2011 is a critical year for the Water Power program to test marine and hydrokinetic devices and conduct feasibility studies at hydroelectric facilities and dams not currently producing electricity. The program plans to invest \$10 million in public-private partnerships for the development and testing of innovative device designs to support establishing baseline costs of energy and performance for different marine and hydrokinetic technologies. Of the \$19.5 million for conventional hydropower, the program's main investment in FY 2011 will be \$10.4 million in feasibility studies to identify opportunities for increased incremental power generation utilizing efficiency improvements, capacity upgrades, and powering existing non-powered dams.

Question 2. Alternative Transportation Funding—I support the programs that you have put in place such as the SuperTruck grants to improve the energy efficiency of vehicles, but there are other transportation technologies that can save energy also. There are companies in Oregon that are developing state-of-the-art plug-in motorcycles and streetcars, that not only can reduce our dependence on imported oil here at home, they can help us preserve American jobs here at home and create products that could be exported around the world—a goal the President just highlighted in his State of the Union Message. The motorcycle company would like to export their products to China as well as market them here at home. The street car company—United Streetcar—is the only U.S. manufacturer left. And they have to import key components like traction motors which they would rather build here in the U.S. Unfortunately, there is no U.S. Government support for these technologies. During Under Secretary Kristina Johnson's testimony before the Committee last December, she indicated that the Department would not be opposed to expanding the Department's advanced vehicle program to include a broader range of technologies such as the plug-in motorcycle. As I told Under Secretary Johnson, not being opposed is not the same as being supportive. Why isn't the Department supporting a broader range of vehicle technologies? Why can't DOE use Recovery Act funding to develop these energy saving products here in the U.S.?

Answer. The Department supports a wide range of advanced transportation technologies: electric-drive, advanced combustion, advanced biofuels, natural gas, and fuel cells. The plug-in motorcycles described above benefit from the DOE's investments in electrification. In electrification—the Department is addressing several of the largest barriers to deploying plug-in vehicles: the high cost of batteries, the need for charging infrastructure, and the need to build consumer confidence by sup-

porting the largest electric car demonstrations in the world. Success in these areas will also help to ensure that electric motorcycles are more affordable, easier to charge, and—as a result—more likely to be embraced by the public.

The Advanced Technology Vehicle Manufacturer (ATVM) Loan Program is not part of the Recovery Act. It has, however, announced four conditional commitments for loans supporting advanced technology vehicle manufacturing facilities in the United States since issuing the program's Interim Final Rule in November 2008. The ATVM loan program was recently expanded to include a broader range of vehicles that qualify. The original authorizing legislation limited the program to light duty vehicles that meet emission standards and achieve an improvement of 125% of base year combined fuel economy for similar vehicles.¹ Due to the statute's reliance on corporate average fuel economy (CAFE) metrics, DOE's implementing regulations restricted the program to those vehicles subject to the CAFE standards. Motorcycles are not subject to CAFE standards.

The amended authorizing legislation includes “ultra efficient vehicles” in addition to ATVs.² Ultra-efficient vehicles achieve 75 miles per gallon-equivalent, in gasoline or electric mode. Vehicles must have closed compartments and be designed for at least 2-passengers.

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¹This was established by Section 136 of the Energy Independence and Security Act of 2007.

²Amended in the Energy and Water Development and Related Agencies Appropriations Act of 2010.