AMENDMENT NO._____ Calendar No._____

Purpose: To clarify compensation relating to the exercise of eminent domain authority under the Federal Power Act.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

H. R. 2347

To amend the Internal Revenue Code of 1986 to exclude from gross income any damages, other than punitive damages, received on account of any sexual acts or sexual contact.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. HAWLEY to the amendment (No. _____) proposed by Mrs. CAPITO

Viz:

Beginning on page 242, strike line 11 and all that follows through page 245, line 14, and insert the following:

(e) JUST COMPENSATION FOR TAKINGS OF PRIVATE PROPERTY; COST ALLOCATION FOR TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Section 216(f) of the Federal Power Act (16 U.S.C. 824p(f)) is amended—

(A) by striking the subsection designation and heading and all that follows through ''(1)

Any right-of-way'' in paragraph (1) and inserting the following:

''(f) JUST COMPENSATION FOR TAKINGS OF PRIVATE PROPERTY; COST ALLOCATION FOR TRANSMISSION FACILITIES.—

''(1) JUST COMPENSATION FOR TAKINGS OF PRIVATE PROPERTY.—

''(A) IN GENERAL.—Any property''; and

(B) by striking paragraph (2) and inserting the following:

''(B) AMOUNT.—Just compensation under subparagraph (A) shall be an amount equal to—

''(i) the compensation rate as determined by any applicable State law that—

''(I) is in effect at the time that the eminent domain authority under subsection (e) is exercised;

''(II) is codified in the State where the eminent domain authority is exercised; and

''(III) governs compensation for such exercises of eminent domain authority; or

"(ii) if there is no applicable State law described in clause (i), 150 percent of the fair market value of the property.

"(2) COST ALLOCATION FOR TRANSMISSION FACILITIES.—

"(A) TRANSMISSION TARIFFS.—For the purposes of this section and except as provided in subparagraph (B), any transmitting utility that owns, controls, or operates, or proposes to construct, electric transmission facilities with respect to which the Commission finds that the criteria set forth in paragraphs (2) through (5) and, if applicable, (6) of subsection (b) are satisfied, and any entity that will become a transmitting utility on completion of 1 or more proposed electric transmission facilities with respect to which the Commission finds that those criteria are satisfied, shall file a tariff or tariff revision with the Commission pursuant to section 205 and the regulations of the Commission allocating the costs of those new or modified electric transmission facilities. The issuance of a permit under subsection (b) shall not be required to make, or otherwise act as a prerequisite to making, that filing pursuant to sec-

tion 205, provided that the Commission finds that the criteria set forth in paragraphs (2) through (5) and, if applicable, (6) of subsection (b) are satisfied with respect to the applicable facilities.

''(B) EXCEPTION.—In the case of an exempt transmitting utility (as defined in section 225(a)) that owns, controls, or operates electric transmission facilities described in subparagraph (A), the Commission, notwithstanding section 211A(c), shall require the exempt transmitting utility to provide transmission services over such facilities pursuant to section 211A and the regulations of the Commission allocating the costs of the new or modified transmission facilities.

''(C) TRANSMISSION BENEFITS.—The Commission shall require that tariffs or tariff revisions filed under this section are just and reasonable and allocate the costs of providing service to customers that benefit, in accordance with the cost-causation principle and at least roughly commensurate with the benefits, including through—

''(i) improved reliability;

"(ii) reduced congestion;

"(iii) reduced power losses;

"(iv) greater carrying capacity that delivers improved reliability or reductions in the cost of delivered power;

"(v) reduced operating reserve requirements; and

"(vi) improved access to generation that achieves reductions in the cost of delivered power.

"(D) RATEPAYER PROTECTION.—Customers that receive no benefit, or benefits that are trivial in relation to the costs sought to be allocated, from existing or proposed electric transmission facilities the costs of which are allocated pursuant to subparagraph (A) shall not be involuntarily allocated any of the costs of those transmission facilities, provided, however, that nothing in this section shall prevent a transmitting utility from recovering all or part of such costs through voluntary agreement with its customers and allocating any remaining costs in accordance with this subsection.".

(2) SAVINGS PROVISION.—If the Federal Energy Regulatory Commission finds that the consider-

ations under paragraphs (2) through (5) and, if applicable, (6) of subsection (b) of section 216 of the Federal Power Act (16 U.S.C. 824p) (as amended by subsection (b)) are satisfied, nothing in this section or the amendments made by this section shall be construed to exclude transmission facilities located on the outer Continental Shelf from being eligible for cost allocation established under subsection (f)(2)(A) of that section (as amended by paragraph (1)(B)).