(1) Chapter Eleven of the North American Free Trade Agreement ("NAFTA") allows foreign investors to file claims against signatory countries that directly or indirectly nationalize or expropriate an investment or take measures "tantamount to nationalization or expropriation" of such an investment.

(2) Foreign investors have filed several claims against the United States, arguing that regulatory activity has been "tantamount to nationalization or expropriation." Most notably, a Canadian chemical company claimed $970,000,000 in damages allegedly resulting from a California State regulation banning the use of a gasoline additive produced by that company.

(3) A claim under Chapter Eleven of the NAFTA is adjudicated by a three-member panel, whose deliberations are largely secret. (4) While it may be necessary to protect the confidentiality of business sensitive information, the general lack of transparency of these proceedings has been excessive.

(b) Purpose.—The purpose of this amendment is to ensure that the proceedings of the NAFTA investor protection tribunals are as transparent as possible, consistent with the need to protect the confidentiality of business sensitive information.

(c) CHAPTER 11 OF NAFTA.—(a) The President shall negotiate with Canada and Mexico an amendment to Chapter Eleven of the NAFTA to ensure the fullest transparency possible with respect to the dispute settlement mechanism in that Chapter, consistent with the need to protect information that is classified or confidential, by—

(1) ensuring that all requests for dispute settlement under Chapter Eleven are promptly made public;

(2) ensuring that with respect to Chapter Eleven—

(A) all proceedings, submissions, findings, and decisions are promptly made public; and

(B) all hearings are open to the public; and

(3) establishing a mechanism under that Chapter for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(d) CERTIFICATION REQUIREMENTS.—Within one year of the enactment of this Act, the U.S. Trade Representative shall certify to Congress that the President has fulfilled the requirements set forth in subsection (c).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 9, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 454, to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes;

S. 1139, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Carson County, Nevada, for continued use as cemeteries;

S. 1325, to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes;

S. 1497 and H.R. 2385, to convey certain property to the City of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes;

S. 1711 and H.R. 1576, to designate the James Peak Wilderness and the James Peak Protective Association in the State of Colorado, and for other purposes; and

S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks (202) 224-9863 or John Watts of the committee staff at (202) 224-5480.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 1, 2002, at 2:30 p.m. to conduct an oversight hearing on the "Treasury Department's Report to Congress on International Economic and Exchange Rate Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 1, 2002, at 9:30 a.m. to conduct an oversight hearing on the "Treasury Department's Report to Congress on International Economic and Exchange Rate Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 1, 2002, at 10:15 a.m. to conduct an oversight hearing on "The Energy Policy Act of 2002: Agenda.

WITNESSES

Panel 1: The Honorable Marc Grossman, Under Secretary for Political Affairs, Department of State, Washington, DC; and the Honorable Douglas Feith, Under Secretary for Policy, Department of Defense, Washington, DC.

Panel 2: General Wesley K. Clark, USA (ret.), Former Supreme Allied Commander Europe, The Stephens Group, Washington, DC; and Lt. General William E. Odom USA (ret.), Former Director, National Security Agency, Yale University, The Hudson Institute, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Health, Education, Labor, and PENSIONS be authorized to meet in executive session during the session of the Senate on Wednesday, May 1, 2002, after the first afternoon floor vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 1, 2002 at 2:30 p.m. to conduct a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 1, 2002 at 2:30 p.m. to conduct an oversight hearing on "TANF Reauthorization and Federal Housing Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

On April 25, 2002, the Senate amended and passed H.R. 4, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4) entitled "An Act to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes."

SEC. 1. SHORT TITLE.

This Act may be cited as the "Energy Policy Act of 2002."

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title. Sec. 2. Table of contents.

DIVISION A—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION

TITLE I—REGIONAL COORDINATION

Sec. 101. Policy on regional coordination.

Sec. 102. Federal support for regional coordination.

TITLE II—ELECTRICITY

Subtitle A—Amendments to the Federal Power Act

Sec. 201. Definitions.

Sec. 935. Grants for energy-conserving improvements.

Sec. 934. Public housing capital fund.

Sec. 933. FHA mortgage insurance incentives.

Sec. 931. Capacity building for energy efficient, industrial energy intensity.

Sec. 930. Study of energy efficiency standards.

Sec. 928. Energy conservation standards for commercial products.

Sec. 927. Energy labeling.

Sec. 926. Energy Star Program.

Sec. 925. Authorization to set standards for commercial products.

Sec. 924. Additional test procedures.

Sec. 923. Additional definitions.

Sec. 922. Authority to set standards for commercial products.

Sec. 921. Voluntary commitments to reduce industrial energy intensity.

Sec. 920. Increased use of recycled material in federally funded projects involving procurement of cement or concrete.

Sec. 919. Energy and water saving measures in congressional buildings.

Sec. 918. Federal Energy Bank.

Sec. 917. Review of energy savings performance contract sunsets.

Sec. 916. Energy savings performance contract definitions.

Sec. 915. Repeal of energy savings performance contract sunset.

Sec. 914. Procurement of energy efficient products.

Sec. 913. Federal building performance standards.

Sec. 912. Energy use measurement and accountability.

Sec. 911. Energy management requirements.

Sec. 902. State energy programs.

Sec. 901. Increased funding for LIHEAP, weatherization assistance, and State energy grants.

Sec. 900. Low income community energy efficiency pilot program.

Sec. 895. Energy efficient appliance rebate programs.

Subtitle B—Federal Energy Efficiency Assistance

Sec. 894. Fuel system requirements harmonization study.

Sec. 893. Energy efficient schools.

Sec. 892. State energy programs.

Sec. 891. Low income community energy efficiency programs.

Sec. 890. Additional opt-in areas under reformulated gasoline program.

Sec. 889. Fuel system requirements harmonization study.

Sec. 888. Federal enforcement of State fuels regulations.

Sec. 887. Additional opt-in areas under reformulated gasoline program.

Sec. 886. Federal enforcement of State fuels regulations.

Sec. 885. Public housing capital fund.

Sec. 884. FHA mortgage insurance incentives for energy efficient housing.

Sec. 883. Authority for water quality protection from fuels.

Sec. 882. Leaking underground storage tanks.

Sec. 881. Energy efficient appliances.


Sec. 878. Capital fund.

Sec. 877. Energy-efficient appliances.

Sec. 876. Energy efficiency standards.

Sec. 875. Energy strategies for HUD.

Subtitle E—Rural and Remote Communities

Sec. 874. Short title.

Sec. 873. Findings and purpose.

Sec. 872. Definitions.

Sec. 871. Authorization of appropriations.

Sec. 870. Statement of activities and review.

Sec. 869. Eligible activities.

Sec. 868. Allocation and distribution of funds.

Sec. 867. Rural and remote community electrification grants.

Sec. 866. Additional authorization of appropriations.

Sec. 865. Rural recovery community development block grants.

DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLE X—NATIONAL CLIMATE CHANGE POLICY

Subtitle A—Sense of Congress

Sec. 1001. Sense of Congress on climate change.

Sec. 1002. Climate Change Strategy.

Sec. 1003. National climate change strategy.

Sec. 1004. Office of National Climate Change Policy.

Sec. 1005. Office of Climate Change Technology.

Sec. 1006. Additional offices and activities.

Subtitle C—Science and Technology Policy

Sec. 1024. Global climate change in the Office of Science and Technology Policy.

Sec. 1023. Director of Office of Science and Technology Policy Functions.

Subtitle D—Miscellaneous Provisions

Sec. 1032. Additional information for regulatory reviews.

Sec. 1031. Greenhouse gas emissions from Federal facilities.

TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

Sec. 1101. Purpose.

Sec. 1102. Definitions.

Sec. 1103. Establishment of memorandum of agreement.

Sec. 1104. National Greenhouse Gas Database.

Sec. 1105. Greenhouse gas reduction reporting.

Sec. 1106. Measurement and verification.

Sec. 1107. Independent reviews.

Sec. 1108. Research and development participation.

Sec. 1109. Enforcement.

Sec. 1110. Report on statutory changes and harmonization.

Sec. 1111. Authorization of appropriations.

Subtitle E—Enhancing Research, Development, and Training

TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS

Sec. 1201. Short title.

Sec. 1202. Findings.

Sec. 1203. Definitions.

Sec. 1204. Construction with other laws.

Sec. 1205. Amendments to the Federal Non-General Facilities.

Sec. 1206. Nuclear energy research initiative.

Sec. 1207. Nuclear energy technology development program.

Sec. 1208. Research and development for commercial-scale advanced nuclear Research and Development.

Sec. 1209. Nuclear energy technology development program.

Sec. 1210. Energy, Safety, and Environmental Protection.

Sec. 1211. Research grants.

Sec. 1212. Integrated Program Office.

Sec. 1213. Change in committee name and structure.

Sec. 1214. Carbon sequestration demonstration projects and outreach.

Sec. 1215. High power density industry program.

Sec. 1216. Research regarding precious metal recovery.

Sec. 1217. Carbon sequestration basic and applied research.

Sec. 1218. International energy technology demonstration projects and outreach.

Sec. 1219. International energy technology demonstration projects and outreach.

Sec. 1220. Integrated Program Office.

Sec. 1221. Clean energy technology exports program.

Sec. 1222. Carbon sequestration demonstration projects and outreach.

Sec. 1223. International energy technology development program.

Subtitle D—Climate Change Science and Information

Part I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990


Sec. 1302. Changes in definitions.

Sec. 1303. Change in committee name and structure.

Sec. 1304. Change in national climate change research plan.

Sec. 1305. Integrated Program Office.

Sec. 1306. Research grants.

Sec. 1307. Evaluation of information.

Part II—NATIONAL CLIMATE SERVICES AND MONITORING

Sec. 1311. Amendment of National Climate Program Act.

Sec. 1312. Changes in findings.

Sec. 1313. Tools for regional planning.
Sec. 1344. Authorization of appropriations.
Sec. 1345. National Climate Service Plan.
Sec. 1346. International Pacific research and cooperation.
Sec. 1347. Retiring on trends.
Sec. 1348. Arctic research and policy.
Sec. 1349. Abrupt climate change research.

PART III—OCEAN AND COASTAL OBSERVING SYSTEM
Sec. 1351. Ocean and coastal observing system.
Sec. 1352. Authorization of appropriations.

Subtitle E—Climate Change Technology
Sec. 1361. NIST greenhouse gas functions.
Sec. 1362. Development of new measurement technologies.
Sec. 1363. Enhanced environmental measurements and standards.
Sec. 1364. Technology development and diffusion.
Sec. 1365. Authorization of appropriations.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION
Sec. 1371. Regional climate assessment and adaptation program.
Sec. 1372. Coastal vulnerability and adaptation.
Sec. 1373. Arctic research and planning.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS
Sec. 1381. Remote sensing pilot projects.
Sec. 1382. Database establishment.
Sec. 1383. Air quality research, forecasts and warnings.
Sec. 1384. Definitions.
Sec. 1385. Authorization of appropriations.

TITLE XIV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS
Sec. 1401. Definitions.
Sec. 1402. Availability of funds.
Sec. 1403. Cost sharing.
Sec. 1404. Merit review of proposals.
Sec. 1405. External technical review of departmental programs.
Sec. 1406. Improved coordination and management of civilian science and technology programs.
Sec. 1407. Improved coordination of technology transfer activities.
Sec. 1408. Technology infrastructure program.
Sec. 1409. Small business advocacy and assistance.
Sec. 1410. Other transactions.
Sec. 1411. Mobility of scientific and technical personnel.
Sec. 1412. National Academy of Sciences report.
Sec. 1413. Research on technology readiness and barriers to technology transfer.
Sec. 1414. United States-Mexico energy technology cooperation.

TITLE XV—PERSONNEL AND TRAINING
Sec. 1501. Workforce trends and traineeship grants.
Sec. 1502. Postdoctoral and senior research fellowships in energy research.
Sec. 1503. Training guidelines for electric energy industry personnel.
Sec. 1505. Improved access to energy-related scientific and technical careers.
Sec. 1506. National power plant operations technology and education center.
Sec. 1507. Federal mine inspectors.

DIVISION G—ENGINEERING INFRASTRUCTURE SECURITY

TITLE XVII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs
Sec. 1501. Definitions.
Sec. 1502. Research, Development, Demonstration and Commercial Application.
Sec. 1503. Training guidelines for electric energy personnel.
Sec. 1505. Improved access to energy-related scientific and technical careers.
Sec. 1506. National power plant operations technology and education center.
Sec. 1507. Federal mine inspectors.
Sec. 1508. Authorization of appropriations.

Subtitle B—Department of the Interior Programs
Sec. 1511. Database establishment.
Sec. 1512. Air quality research, forecasts and warnings.
Sec. 1513. Definitions.
Sec. 1514. Authorization of appropriations.

TITLE XVIII—ENERGY TAX INCENTIVES
Sec. 1501. Short title; etc.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT
Sec. 1501. Three-year extension of credit for production of electricity from wind and other renewable sources.
Sec. 1502. Credit for electricity produced from biomass.
Sec. 1503. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.
Sec. 1504. Treatment of persons not able to use entire credit.
Sec. 1505. Credit for electricity produced from small irrigation power.
Sec. 1506. Credit for electricity produced from municipal biosolids and recycled sludge.

TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES
Sec. 1501. Alternative motor vehicle credit.
Sec. 1502. Modification of credit for qualified electric vehicles.
Sec. 1503. Credit for installation of alternative fueling stations.
Sec. 1504. Credit for retail sale of alternative fuels as motor vehicle fuel.
Sec. 1505. Small ethanol producer credit.
Sec. 1506. All alcohol fuels taxes transferred to Highway Trust Fund.
Sec. 1507. Increased flexibility in alcohol fuels tax credit.
Sec. 1508. Incentives for biodiesel.
Sec. 1509. Credit for taxpayers owning commercial power takeoff vehicles.
Sec. 1510. Modifications to the incentives for alternative vehicles and fuels.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS
Sec. 1501. Credit for construction of new energy efficient home.
Sec. 1502. Credit for energy efficient appliances.
Sec. 1503. Credit for residential energy efficient property.
Sec. 1504. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 1505. Energy efficient commercial buildings deduction.
Sec. 1506. Allowance of deduction for qualified new or retrofitted energy management devices.
Sec. 1507. Three-year applicable recovery period for depreciation of qualified energy management devices.
Sec. 1508. Energy credit for combined heat and power system property.
Sec. 1509. Credit for energy efficiency improvements to existing homes.
Sec. 1510. Allowance of deduction for qualified new or retrofitted water sub-metering devices.
Sec. 1511. Three-year applicable recovery period for depreciation of qualified water submetering devices.

TITLE XXII—CLEAN COAL INCENTIVES

Subtitle A—Credit for R&D on Reductions and Efficiency Improvements in Existing Coal-based Electricity Generation Facilities
Sec. 1501. Credit for production from a qualifying clean coal technology unit.
Sec. 1502. Incentives for Early Commercial Applications of Advanced Clean Coal Technologies.
Sec. 1503. Credit for investment in qualifying advanced coal technology.
Sec. 1504. Credit for production from a qualifying advanced coal technology unit.
Sec. 1505. Treatment of Persons Not able To Use Entire Credit.
Sec. 1506. Treatment of persons not able to use entire credit.

TITLE XXIII—OIL AND GAS PROVISIONS
Sec. 1501. Oil and gas from marginal wells.
Sec. 1502. Natural gas gathering lines treated as 7-year property.
Sec. 1503. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.
Sec. 1504. Environmental tax credit.
Sec. 1505. Determination of small refiner exception to oil depletion deduction.
Sec. 1506. Marginal production income limit extension.
Sec. 1507. Amortization of geological and geophysical expenditures.
Sec. 1508. Amortization of delay rental payments.
Sec. 1509. Study of coal bed methane.
Sec. 1510. Extension and modification of credit for producing fuel from a non-conventional source.
Sec. 1511. Natural gas distribution lines treated as 15-year property.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS
Sec. 1501. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.
Sec. 1502. Modifications to special rules for nuclear decommissioning costs.
Sec. 1503. Treatment of certain income of cooperatives.
Sec. 1504. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.
Sec. 1505. Application of temporary regulations to certain output contracts.
Sec. 1506. Treatment of certain development income of cooperatives.

TITLE XXV—ADDITIONAL PROVISIONS
Sec. 1501. Extension of accelerated depreciation and wage credit benefits on Indian reservations.
Sec. 1502. Study of effectiveness of certain provisions by OIG.
Sec. 1503. Credit for production of Alaska natural gas.
Sec. 1504. Sale of gasoline and diesel fuel at duty-free sales enterprises.
Sec. 2701. Fair treatment of Presidential policies to provide reliable and affordable energy, conservation, and load control measures.

DIVISION A—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION

TITLE I—REGIONAL COORDINATION

SEC. 101. POLICY ON REGIONAL COORDINATION.

(a) STATEMENT OF POLICY.—It is the policy of the Federal Government to encourage States to coordinate, on an interregional basis, energy policies to provide reliable and affordable energy services to the public while minimizing the impact of providing energy services on communities and the environment.

(b) DEFINITION OF ENERGY SERVICES.—For purposes of this section, the term “energy services” means—

(1) the generation or transmission of electric energy,
(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum products, natural gas, or nuclear fuel,
(3) the reduction in load through increased efficiency, conservation, or load control measures.

SEC. 102. FEDERAL SUPPORT FOR REGIONAL COORDINATION.

(a) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to help them in coordinating their energy policies on a regional basis. Such technical assistance may include assistance in—

(1) identifying the areas with the greatest energy resource potential and assessing future supply availability and demand requirements,
(2) planning, coordinating, and siting additional energy infrastructure, including generating facilities and transmission facilities, pipelines, refineries, and distributed generation facilities to maximize the efficiency of energy resources and infrastructure and meet regional needs with the minimum adverse impacts on the environment,
(3) identifying and resolving problems in distribution networks,
(4) developing plans to respond to surge demand or emergency needs, and
(5) developing renewable energy, energy efficiency, conservation, and load control programs.

(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—

(1) ANNUAL CONFERENCE.—The Secretary of Energy shall, on a biennial basis, convene an annual conference to promote regional coordination on energy policy and infrastructure issues.

(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives of Federal, State, and regional energy organizations, and other interested parties.

(3) STATE AND FEDERAL AGENCY COOPERATION.—The Secretary of Energy shall consult and cooperate with State and regional energy organizations, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the Chair of the Council on Environmental Quality in the planning and conduct of the conference.

(4) AGENDA.—The Secretary of Energy, in consultation with the appropriate representatives identified in paragraph (3) and participants identified in paragraph (2), shall establish an agenda for each conference that promotes regional coordination on energy policy and infrastructure issues.

(5) RECOMMENDATIONS.—Not later than 60 days after the conclusion of each annual conference, the Secretary of Energy shall report to the President and the Congress recommendations arising out of the conference that may improve—

(A) regional coordination on energy policy and infrastructure issues, and
(B) Federal support for regional coordination.

SEC. 2701. Fair treatment of Presidential policies to provide reliable and affordable energy, conservation, and load control measures.

DIVISION J—MISCELLANEOUS PROVISION

Sec. 2701. Fair treatment of Presidential policies to provide reliable and affordable energy, conservation, and load control measures.
SEC. 205. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.

Part II of the Federal Power Act is further amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES"

"Sec. 211A. (a) Subject to section 212(h), the Commission may, in accordance with this section, order an unregulated transmitting utility to provide transmission services—

(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

(2) on terms and conditions (not relating to rates) that are comparable to those under Commission jurisdiction.

(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

(1) sells no more than 4,000,000 megawatt-hours of electricity per year;

(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof);

(3) meets other criteria the Commission determines to be in the public interest.

(c) The rate changing procedures applicable to public utilities under section 211 shall apply to unregulated transmitting utilities and that constitute a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

(d) In exercising its authority under paragraph (1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

(f) The Commission may order an electric reliability organization or other affected entity to develop and enforce reliability standards and the effectiveness of the electric reliability organization or the Commission with respect to the content of a proposed standard or modification to a reliability standard.

(g) For purposes of this subsection, the term "unregulated transmitting utility" means an entity that—

(1) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

(2) is either an entity described in section 207(f) or a noncompetitive entity.

SEC. 206. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting the following after section 215 as added by this Act:

"SEC. 216. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—For purposes of this section—

(1) ‘bulk-power system’ means the network of interconnected transmission facilities and generating facilities;

(2) ‘electric reliability organization’ means a self-regulating organization certified by the Commission under subsection (c) whose purpose is to promote the reliability of the bulk-power system; and

(3) ‘reliability standard’ means a requirement for reliable operation of the bulk-power system approved by the Commission under this section.

(b) JURISDICTION AND APPLICABILITY.—The Commission shall have jurisdiction, within the United States, over an electric reliability organization, any regional entities, and all users, owners and operators of the bulk-power system, including with respect to the entities described in section 201(f), for purposes of approving reliability standards and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

(c) CERTIFICATION.—(1) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

(2) Following adoption of the final rule under paragraph (1), any person may submit an application to the Commission for certification as an electric reliability organization.

(d) Enforcement.—(1) The Commission may, by rule or order, require an electric reliability organization or any regional entity to—

(A) have the ability to develop, and enforce reliability standards that provide for an adequate level of reliability of the bulk-power system;

(B) have established rules that—

(i) assure that the reliability of the users and owners and operators of the bulk-power system;

(ii) assure fair or reasonable treatment, after notice and opportunity for hearing, of users and owners or operators of the bulk-power system; and

(iii) allocate equitably, dues, fees, and other charges among end users for all activities under this section;

(iii) provide fair and impartial procedures for enforcement of reliability standards through unannounced inspections (including limitations on activities, functions, or operations, or other appropriate sanctions); and

(iv) provide for reasonable notice and opportunity for comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.

(2) If the Commission receives two or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.

(3) RELIABILITY STANDARDS.—(1) An electric reliability organization shall file a proposed reliability standard or modification to a reliability standard with the Commission.

(b) The Commission may approve a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

(c) If the Commission receives two or more proposed reliability standards or a modification to a reliability standard, but shall not defer with respect to its decisionmaking in any committee or subordinate organization with respect to the content of a proposed standard or modification to a reliability standard, but shall not defer with respect to its decisionmaking in any committee or subordinate organization with respect to the content of a proposed standard or modification to a reliability standard.

(d) The electric reliability organization and the Commission shall retroactively impose a proposed reliability standard or modification to a reliability standard to a regional entity consistent with the requirements of this paragraph.

(4) The Commission may take such action as is necessary or appropriate against the electric reliability organization or any regional entity to ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.

(5) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—An electric reliability organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change in an electric reliability organization rule or rule change.

(6) The Commission may take such action as is necessary or appropriate against the electric reliability organization or any regional entity to ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.

COORDINATION WITH CANADA AND MEXICO.—(1) The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico as a regional entity consistent with the requirements of the 1996 North American Agreement on Energy Transmission.

(2) The President shall use his best efforts to enter into international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the electric reliability organization in the United States and Canada or Mexico.

RELIEABILITY REPORTS.—The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America.

(S) SAVINGS PROVISIONS.—(1) The electric reliability organization shall have authority to develop and enforce compliance with standards for the reliable operation of only the bulk-power system.

(2) This section does not provide the electric reliability organization or the Commission with the authority to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

(4) Within 90 days of the application of the electric reliability organization or other affected party, and after notice and opportunity for comment, the Commission shall take action, in order determining whether a State action is inconsistent with a reliability standard, taking into...
SEC. 221. SHORT TITLE.
This subtitle may be cited as the “Public Utility Holding Company Act of 2002.”

SEC. 222. DEFINITIONS.
For purposes of this subtitle:

(1) The term “affiliate” of a company means any company, 5 percent or more of the outstanding voting stock of which is owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term “associate company” of a company means any company in the same holding company system with such company.


(4) The term “company” means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, owned or controlled by another person, corporation, trust, estate, or other liquidating agent of any of the foregoing.

(5) The term “electric utility company” means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The term “exempt wholesale generator” and “foreign utility company” have the same meanings as in sections 33 and 33, respectively, of the Public Utility Holding Company Act of 1935 (16 U.S.C. 824a, 824s), as those sections existed on the day before the effective date of this subtitle.

(7) The term “gas utility company” means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) The term “holding company” means:

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of any holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such controlling influence over the management or policies of any public utility company or to act in such a manner as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term “holding company system” means a holding company, together with its subsidiaries.

(10) The term “jurisdictional rates” means rates established by the Commission for the exportation of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term “natural gas company” means a person engaged in the transmission of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

SEC. 223. APPLICATION TO ALASKA AND HAWAII.
The provisions of this section do not apply to Alaska or Hawaii.
The term “person” means an individual or company.

The term “public utility” means any person who owns or operates facilities used for transmitting electricity in interstate commerce or sales of electric energy at wholesale in interstate commerce.

The term “public utility company” means an electric utility company or a gas utility company.

The term “State commission” means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

The term “subsidiary company” of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle, unless such subsidiaries are holding companies.

The term “voting security” means any security primarily entitling the owner thereof to vote in the direction or management of the affairs of a company.


SEC. 224. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) In GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to the rate protection of utility customers with respect to jurisdictional rates.

(b) OTHER AUTHORITY.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, to the extent to which costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as set forth in section (c), except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 225. STATE ACCESS TO BOOKS AND RECORDS.

(a) In GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall provide, for inspection by the State commission, such books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail by the State commission;

(2) the State commission deems to be relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any costs of goods or services acquired by such public utility company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary to preserve confidentiality against unwarranted disclosure to the public or any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records under any law limiting the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 226. EXEMPTION AUTHORITY.

(a) RULEMAKING.—No later than 90 days after the effective date of this subtitle, the Commission shall promulgate rules to exempt from the requirements of section 224 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 224 only if—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person is necessary or appropriate for the protection of utility customers with respect to rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 227. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFlicted.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the promulgation of such rules and regulations as are necessary or appropriate for the protection of utility customers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable laws, rules, or regulations, to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 228. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); and

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to prevent the provisions of this subtitle.

SEC. 231. SAFINGS PROVISIONS.

(a) In GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this subtitle.

(b) EFFECT ON OTHER COMMISSION AUTHORIZATION.—Nothing in this subtitle precludes, if in the author- ity of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

SEC. 232. IMPLEMENTATION.

Not later than 18 months after the date of enactment of this subtitle, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle (other than section 225); and

(2) submit to the Congress a detailed recommendation on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 233. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 234. INTER-AGENCY REVIEW OF COMPETI- TIVE POSSIBILITIES IN THE WHOLESALE AND RE- TAIL MARKETS FOR ELECTRIC EN- ERY.

(a) TASK FORCE.—There is established an inter-agency task force, to be known as the “Electric Energy Market Competition Task Force” (referred to in this section as the “task force”), which shall consist of—

(1) one member each from—

(A) the Department of Justice, to be appointed by the Attorney General of the United States; and

(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission; and

(C) the Federal Trade Commission, to be appointed by the chairman of that Commission; and

(2) two advisory members (who shall not vote), of whom—

(A) one shall be appointed by the Secretary of Agriculture to represent the Rural Utility Service; and

(B) one shall be appointed by the Chairman of the Securities and Exchange Commission to represent that Commission.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall perform a study and analysis of the protection and promotion of competition within the wholesale and retail markets for electric energy in the United States.

(2) REPORT.—(A) FINAL REPORT.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.
(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide public comment.

(c) FOCUS.—The study required by this section shall examine—

(1) the best means of protecting competition within the wholesale and retail electric market;
(2) activities within the wholesale and retail electric market that may allow unfair and unjustified discriminatory and deceptive practices;
(3) the role of the wholesale and retail electric market, including mergers and acquisitions, that deny market access or suppress competition;
(4) cross-subsidization that may occur between regulated and nonregulated activities; and
(5) the role of State public utility commissions in regulating competition in the wholesale and retail electric market.

(d) CONSULTATION.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.

SEC. 235. GAO STUDY ON IMPLEMENTATION.

(a) STUDY.—The Comptroller General shall conduct a study of competition in the wholesale and retail electric market during the 18-month period following the effective date of this subsection to—

(1) the prevention of anticompetitive practices and other abuses by public utility holding companies, including cross-subsidization and other market power abuses; and
(2) the promotion of competition and efficient energy markets to the benefit of consumers.

(b) REPORT TO CONGRESS.—Not earlier than 18 months after the effective date of this subsection, after any changes in the Federal Government and the States during the 18-month period following the effective date of this subsection in—

(1) the prevention of anticompetitive practices and other abuses by public utility holding companies, including cross-subsidization and other market power abuses; and
(2) the promotion of competition and efficient energy markets to the benefit of consumers.

SEC. 236. EFFECTIVE DATE.

This subsection shall take effect 18 months after the effective date of this subsection.

SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subsection.

SEC. 238. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825p) is repealed.

(b) DEFINITIONS.—(1) Section 201(g) of the Federal Power Act (16 U.S.C. 824g) is amended by striking "1935" and inserting "2002''.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "2002''.

SEC. 241. REAL-TIME PRICING AND TIME-OF-USE METERING STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, permit the electric consumer to下令 time metering service.

(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.

(12) TIME-OF-USE METERING.—(A) Each electric utility shall, at the request of an electric consumer, provide an electricity service under a time-of-use rate schedule which enables the electric utility to manage energy use and cost through time-of-use metering and technology. -

(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

(13) FUTURES CONTRACTS.—(A) The Secretary of Energy may establish a program to encourage the development of futures markets for electricity.

(B) The Secretary may establish requirements for futures contracts for electricity.

(C) Nothing in this paragraph affects the right to recover costs of purchasing electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

(4) COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.—

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2626c–3) is amended by adding at the end the following:

"(b) SPECIAL RULE.—For purposes of implementing paragraphs (2), (4), and (5) of section 111(a) and paragraph (6) of section 113(b), the Secretary may provide such technical assistance as he determines appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under paragraphs (2), (4), and (5) of section 113(b)."

(b) SPECIAL RULE.—(1) Electric utilities shall be deemed to be electric utilities under section 112, each State regulatory authority shall examine, and the Federal Energy Regulatory Commission shall issue and enforce such rules and regulations as may be required to ensure that the Commission determines, by rule, meets the requirements (including requirements relating to the date of enactment of the Public Utility Regulatory Policies Act of 1978) to sell electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity)."
(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) ‘qualifying cogeneration facility’ means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, determine.

SEC. 245. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is further amended by adding at the end the following:

"(13) NET METERING.—(A) Each electric utility shall meet all applicable safety, performance, reliability, and customer service charges; and

(B) purposes of this subparagraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than the date of enactment of this paragraph.

(b) SPECIAL RULES FOR NET METERING.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is further amended by adding at the end the following:

"(b) RATES AND CHARGES.—An electric utility—

(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

"(c) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the electric utility during the billing period in accordance with normal metering practices.

"(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRICITY USED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

"(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period, the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2) and the satisfactory performance of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the billing period in accordance with paragraph (2).

"(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, and interconnection standards established by the National Electrical Code, the Institution of Electrical and Electronics Engineers, and Underwriters Laboratories.

SEC. 251. INFORMATION DISCLOSURE.

(a) OFFERS AND SOLICITATIONS.—The Federal Trade Commission shall issue rules requiring each electric utility that makes an offer to sell electric energy, or solicits electric consumers to purchase electric energy, or extends net metering service to an electric consumer to state the following information:

(1) the nature of the service being offered, including information about interruptibility of service;

(2) the price of the electric energy, including a description of any variable charges;

(3) a description of all other charges associated with the service being offered, including access charges, exit charges, back-up service charges, stranded cost recovery charges, and customer service charges;

(4) the availability of a Director to be appointed by the President, by and with the advice and consent of the Senate, to examine, investigate, make recommendations, and report to Congress regarding the competition, regulation, or public service matters relating to the provision of electric energy, under the jurisdiction of the Federal Energy Regulatory Commission and the Federal Power Commission, except that the Director may not be an employee of the Federal Energy Regulatory Commission or the Federal Power Commission.

(5) SAFETY AND PERFORMANCE STANDARDS.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2) and the satisfactory performance of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the billing period in accordance with paragraph (2).

(b) PERMITTED USE.—The rules issued under this section shall not prohibit any electric utility from using, disclosing, or permitting access to consumer information referred to in subsection (a) of this paragraph in the following cases:

(1) to facilitate an electric consumer’s change in selection of an electric utility under procedures approved by the State or State regulatory authority and the procedures set forth in subsection (b) of this section;

(2) to initiate, render, bill, or collect for the sale or delivery of electric energy to electric consumers or for related services;

(3) to protect the rights or property of the person obtaining such information;

(4) to protect retail electric consumers from fraud, abuse, and unauthorized use in the sale or delivery of electric energy to such consumers;

(5) for law enforcement purposes; or

(6) for purposes of compliance with any Federal, State, or local law or regulation authorizing disclosure of information to a Federal, State, or local agency.

(c) AGGREGATE CONSUMER INFORMATION.—The rules issued under this subsection may permit a person to use, disclose, and permit access to aggregate consumer information and may require an electric utility to make such information available to other electric utilities upon request and payment of a reasonable fee.

SEC. 255. OFFICE OF CONSUMER ADVOCACY.

(a) DEFINITIONS.—In this section:

(1) COMMISION.—The term “Commission” means the Federal Energy Regulatory Commission.

(2) ENERGY CUSTOMER.—The term “energy customer” means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(3) NATURAL GAS COMPANY.—The term “natural gas company” has the meaning given in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Energy Policy Act of 1992 (15 U.S.C. 3431(a)).

(b) OFFICE.—The term “Office” means the Office of Consumer Advocacy established by subsection (b)(1).

(c) PUBLIC UTILITY.—The term “public utility” has the meaning given in the term section 201(e) of the Federal Power Act (16 U.S.C. 721(e)).

(d) SMALL COMMERCIAL CUSTOMER.—The term “small commercial customer” means a commercial customer that has peak demand of not more than 1,000 kilowatts per hour.

(e) ESTABLISHMENT.—There is established within the Department of Justice the Office of Consumer Advocacy.

(f) DIRECTOR.—The Office shall be headed by a Director to be appointed by the President, by and with the advice and consent of the Senate.

(g) DUTIES.—The Office may represent the interests of energy customers on matters concerning electric utilities and natural gas companies under the jurisdiction of the Commission.

(h) PERMITTED USE.—The Office may issue rules prohibiting the change of
section of an electric utility except with the informed consent of the electric consumer.

(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

**SEC. 255. APPLICABLE PROCEDURES.** The Federal Trade Commission shall proceed in accordance with section 533 of title 5, United States Code, when prescribing a rule required by this subtitle.

**SEC. 256. FEDERAL TRADE COMMISSION ENFORCEMENT.**

Violation of a rule issued under this subtitle shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and shall be subject to the sanctions provided for unfair or deceptive acts or practices. All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this subtitle notwithstanding any jurisdictional limitations in such Act.

**SEC. 257. STATE AUTHORITY.**

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from enforcing laws, rules, or procedures regarding the practices which are the subject of this section.

**SEC. 258. APPLICABLE SUBTITLE.**

The provisions of this subtitle apply to each electric utility if the total sales of electric energy to an electric consumer under section 18 of the Federal Trade Commission Act (15 U.S.C. 45) exceeds 100 million kilowatt-hours for a calendar year. If a State, or any political subdivision thereof, or an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1651 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, shall be entitled to the benefits of this section, the term "electric utility" as used in this subtitle shall be renewable energy that is generated by an Indian tribe or by a corporation, partnership, or business association which is primarily or in whole owned, directly or indirectly, by an Indian tribe. For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1651 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**BIESIENAL REPORT.** In any and every 2 years hereafter, the Secretary of Energy shall report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress of the Federal Government in meeting the goals established by this section.

**SEC. 264. RENEWABLE PORTFOLIO STANDARDS.**

Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:

**SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning in calendar year 2005, each retail electric supplier shall submit to the Secretary not later than April 1 of the following calendar year, renewable energy credits in an amount equal to the required percentage specified in subsection (b),

(b) REQUIRED ANNUAL PERCENTAGE.—For calendar years 2005 through 2020, the required annual percentage of the retail electric supplier's consumption that shall be generated from renewable energy resources shall be the percentage specified in the following table:

<table>
<thead>
<tr>
<th>Calendar Years</th>
<th>Required annual percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005 through 2006</td>
<td>7.0</td>
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<tr>
<td>2007 through 2008</td>
<td>8.0</td>
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<tr>
<td>2009 through 2010</td>
<td>9.0</td>
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<td>2011 through 2012</td>
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<td>2017 through 2018</td>
<td>13.0</td>
</tr>
<tr>
<td>2019 through 2020</td>
<td>14.0</td>
</tr>
</tbody>
</table>

(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of each calendar year.
subsection (a) through the submission of renewable energy credits.

“(A) issued to the retail electric supplier under subsection (d);

“(B) obtained by purchase or exchange under subsection (e); or

“(C) borrowed under subsection (f).

“(2) A credit may be counted toward compliance with subsection (a) only once.

“(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits. (2) Under the program, an entity that generates renewable energy resources through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall—

“(A) set forth information concerning the type of renewable energy resource used to produce the electricity,

“(B) the location where the electric energy was produced, and

“(C) any other information the Secretary determines appropriate.

“(3)(A) Except as provided in paragraphs (B), (C), and (D), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates from the date of enactment of this section and in each subsequent calendar year through the use of a renewable energy resource at an eligible facility.

“(B) For incremental hydropower the credits shall be based on the expected increase in average annual generation resulting from the efficiency improvements or capacity additions. The number of credits shall be calculated using the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission. The calculation of the credits for incremental hydropower shall not be based on any operational changes at the hydroelectric facility not directly associated with the efficiency improvements or capacity additions.

“(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated and supplied to the grid in that calendar year through the use of a renewable energy resource at an eligible facility located on Indian land. For purposes of this paragraph, ‘kWh’ means the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section.

“(D) Upon the approval of the plan by the Secretary, apply credits that the plan demonstrates will be earned within the next 3 calendar years to meet the requirements of subsection (a) for each calendar year involved.

“(9) CREDIT COST CAP.—The Secretary shall offer renewable energy credits for sale at the lesser of 3 cents per kilowatt-hour or 200 percent of the average market value of credits for the applicable compliance period. On January 1 of each following calendar year 2005, the Secretary shall adjust for inflation the price charged for each credit, based on the Gross Domestic Product Implicit Price Deflator.

“(10) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a), unless the retail electric supplier was unable to comply with subsection (a) for reasons outside of the supplier’s reasonable control (including weather-related damage, mechanical failure, lack of transmission capacity or availability, actions of a governmental authority). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than the greater of 3 cents or 200 percent of the average market value of credits for the compliance period for each renewable energy credit not submitted.

“(11) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit renewable energy credits.

“(12) The annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section.

“(13) The validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and

“(14) The quantity of electricity sales of all retail electric suppliers.

“(j) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.

“(k) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State, or from specifying technology mixes.

“(l) DEFINITIONS.—For purposes of this section:

“(1) BIOMASS.—The term ‘biomass’ means any organic material that is available, renewable or recurring basis, including dedicated energy crops, woody crops, wood waste and wood residues, plants (including aquatic plants, grasses, and agricultural crops), residues, fibers, animal wastes and other wet biological materials, except that with respect to material removed from National Forest System lands the term includes only organic material from—

“(A) thinning or thinning trees that are less than 12 inches in diameter;

“(B) slash; and

“(C) brush; and

“(2) ELIGIBLE FACILITY.—The term ‘eligible facility’ means—

“(A) a facility for the generation of electric energy from a renewable energy resource that is placed in service on or after the date of enactment of this section;

“(B) a repowering or cofiring increment that is placed in service on or after the date of enactment of this section for the generation of electric energy from a renewable energy resource that was placed in service before that date.

“(C) Any facility placed in service for purposes of this section.

“(2) ELIGIBLE RENEWABLE ENERGY RESOURCE.—The term ‘eligible renewable energy resource’ means solar, wind, ocean, or geothermal energy, biomass (excluding solid waste and paper that is commonly recycled), landfill gas, a generation offset, or incremental hydropower.

“(4) GENERATION OFFSET.—The term ‘generation offset’ means reduced electricity usage metered at a site where a consumer consumes energy from a renewable energy technology.

“(5) EXISTING FACILITY OFFSET.—The term ‘existing facility offset’ means renewable energy generated from an existing facility, not classified as ‘renewable energy generated by biomass cofired with other fuels is eligible for two credits

“(3)(A) Except as provided in paragraphs (B), (C), and (D), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy generated from a facility used to generate electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section.

“(8) INDIAN LAND.—The term ‘Indian land’ means—

“(A) any land held by any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1651 et seq.), which is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(B) any land held by any Alaskan Native corporation under the Alaska Native Claims Settlement Act.

“(9) RENEWABLE ENERGY.—The term ‘renewable energy’ means electric energy generated by a renewable energy resource.

“(10) RENEWABLE ENERGY RESOURCE.—The term ‘renewable energy resource’ means solar, wind, ocean, or geothermal energy, biomass (including municipal solid waste), landfill gas, a generation offset, or incremental hydropower.

“(11) REPOWERING OR COFIRING INCREMENT.—The term ‘repowering or cofiring increment’ means the additional generation from a modification that is placed in service on or after the date of enactment of this section to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section, or the additional generation above the average generation in the 3 years preceding the date of enactment of this section, or the additional generation from any other facility.

“(12) RETAIL ELECTRIC SUPPLIER.—The term ‘retail electric supplier’ means a person that
sells electric energy to electric consumers and sold not less than 1,000,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year, that such term "electric energy" does not include the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a rural electric cooperative.

"(3) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term "retail electric supplier's base amount" means the total amount of electric energy sold during the most recent calendar year for which information is available, excluding electric energy generated by a "renewable energy resource:"

(A) an electric power plant that uses a "renewable energy resource;"

(B) municipal solid waste; or

c) ADDITIONAL BORROWING AUTHORITY.—In any place where the construction of new roads for the siting of lines or other transmission facilities; (4) any projects that are consistent with the purposes of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall consider development of wind and solar energy, as appropriate, in revisions of land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall contract with the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to the Senate within 24 months after the enactment of this Act.

Subtitle F—General Provisions

SEC. 271. CHANGE 3 CENTS TO 1.5 CENTS.

Notwithstanding any other provision in this Act, “3 cents” shall be considered by law to mean “1.5 cents” in any place “3 cents” appears in title II of this Act.

SEC. 272. BONNEVILLE POWER ADMINISTRATION BORROWING AUTHORITY.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through “(a) The Administrator” and inserting the following:

"SEC. 13. BONNEVILLE POWER ADMINISTRATION BORROWING AUTHORITY.

(a) BONDS.—

(1) IN GENERAL.—The Administrator; and

(2) by adding at the end the following:

"(B) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available in any one time—

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712) is amended by adding at the end the following:

"(3) National Academy of Sciences Study.

(2) DEPARTMENTAL AUTHORITY.

Section 272 of this Act shall apply to the Secretary of the Interior in the same manner as it applies to the Administrator, including through a process of nomination, application, or otherwise, and by reason of any appropriate department rule or order, the Secretary of the Interior, and the Secretary of Agriculture, shall consider development of wind and solar energy, as appropriate, in revisions of land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to the Senate within 24 months after the enactment of this Act.

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(a) BONDS.—

(1) IN GENERAL.—The Administrator; and

(2) by adding at the end the following:

"(B) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator
by a Federal power marketing agency or an electric utility that provides open access transmission service.

(3) The Director may develop, in consultation with industry, a competitive procurement formula for making grants under this section. The formula may take into account the following—

(A) the total number of acres of Indian land owned by an Indian tribe;

(B) the total number of households on the Indian tribe’s Indian land;

(C) the total number of households on the Indian tribe’s Indian land that have no electric service or are under-served; and

(D) financial or other assets available to the Indian tribe from federal sources, and as that term is defined in section 3(4) of the Federal Power Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-Federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

(4) There is authorized to be appropriated to the Director for grants under this subsection—

(A) the term of the existing license in the case of a Federal power marketing agency market and allocate Federal power, or

(B) market and allocate Federal power marketing agency markets, allocates, or purchases power.

SEC. 402. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS. Title II of the Department of Energy Organization Act is amended by adding at the end the following:

"OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS. SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary of Energy and compensated at the rate equal to that of level IV of the Executive Schedule under section 3315 of title 5, United States Code.

(b) The Director shall do the following:

(1) provide a safe, clean, and secure energy supply to all Indian lands;

(2) modernize and develop, for the benefit of Indian tribes, tribal energy infrastructure and economic infrastructure related to natural resource development and electrification;

(3) preserve and promote tribal sovereignty and self determination related to energy matters arising under Federal or non-Federal energy regulations and laws, and help tribes develop renewable forms of energy that can provide a secure, sustainable, and popular energy source for the development of Indian lands;

(4) lower or stabilize energy costs; and

(5) electrically tribe members into and tribal lands.

(c) The Director shall carry out the duties prescribed in this section through the following:

(1) a financial institution subject to the Secretary; or

(2) an Indian tribe, from funds of the Indian tribe, to another tribe.

(d) AVAILABILITY OF APPROPRIATIONS. Amounts appropriated to cover the cost of loan guarantees shall be available without fiscal year limitation to the Secretary to fulfill obligations arising under this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(f) EFFECT ON OTHER LAWS. Nothing in this section shall be construed to affect any other Federal or non-Federal energy regulations and laws.
aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal boundary survey, executive order, Federal statute, secretarial order, or judicial determination.

(b) with respect to a reservation in the State of Oklahoma, all land within such reservation of the

(i) within the jurisdictional area of an Indian tribe, and

(ii) within either the boundaries of the last reservation of such tribe that was established by treaty, executive order, or secretarial order.

(5) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Interior.

(6) TRIBAL LANDS.—The term ‘‘tribal lands’’ means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe’s reservation.

(b) LEASES INVOLVING GENERATION, TRANSMISSION, DISTRIBUTION OR ENERGY PROCESSING FACILITIES.—An Indian tribe may grant a lease of tribal land for electric generation, transmission, or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, and such lease shall require the approval of the Secretary if the lease is executed under tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed 30 years; and

(c) RIGHTS-OF-WAY FOR ELECTRIC GENERATION, TRANSMISSION, DISTRIBUTION OR ENERGY PROCESSING FACILITIES.—An Indian tribe may grant a right-of-way over tribal lands for a pipeline or an electric transmission or distribution line without separate approval by the Secretary, if—

(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary and the term of the right-of-way does not exceed 30 years; and

(2) the pipeline or electric transmission or distribution line serves—

(A) an electric generation, transmission or distribution facility located on tribal land, or

(B) a facility located on tribal land that processes or refines renewable or nonrenewable energy resources developed on tribal lands.

(d) RENEWALS.—Leases or rights-of-way entered into under this subsection may be renewed at the discretion of the Indian tribe in accordance with the requirements of this section.

(e) ENVIRONMENTAL REVIEW REQUIREMENTS.—(1) The Secretary shall have the authority to approve or disapprove tribal regulations required under this subsection. The Secretary shall approve tribal regulations if they are comprehensive in nature, including provisions that—

(A) secure necessary information from the lessee or right-of-way applicant;

(B) term of the concession;

(C) amendments and renewals;

(D) consideration for the lease or right-of-way;

(E) technical or other relevant requirements;

(F) requirements for environmental review as set forth in paragraph (3); and

(G) requirements complying with all applicable environmental laws; and

(H) final approval authority.

(2) A lease or right-of-way shall be valid unless authorized in compliance with the approved tribal regulations.

(3) An Indian tribe, as a condition of securing Secretarial approval required in paragraph (1), must establish an environmental review process that includes the following—

(A) an identification and evaluation of all significant impacts of the proposed action as compared to a no action alternative;

(B) identification of proposed mitigation;

(C) a process for ensuring that the public is informed of and has an opportunity to comment on the proposed action prior to tribal approval of the lease or right-of-way; and

(D) sufficient administrative support and technical capability to carry out the environmental review process.

(4) The Secretary shall review and approve or disapprove the regulations of the Indian tribe within 180 days of the submission of such regulations to the Secretary. Any disapproval of such regulations by the Secretary shall be accompanied by a written determination that sets forth the basis for the disapproval. The 180-day period may be extended by the Secretary after consultation with the Indian tribe.

(d) AGREEMENTS.—(1) Agreements between an Indian tribe and a business entity that are directly associated with the development of electric generation, transmission or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, shall not separately require the approval of the Secretary pursuant to section 1801(b) of the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a) so long as the activity that is the subject of the agreement has been the subject of an environmental review process pursuant to subsection (e) of this section.

(2) The United States shall not be liable for any losses or damages sustained by any party, including the Indian tribe, that are associated with an agreement entered into under this subsection.

(g) DISCLAIMER.—Nothing in this section is intended to modify or otherwise affect the applicability of any provisions of the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a); Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108); Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 2101–2120); any amendments thereto; or any other laws not specifically addressed in this section.

SEC. 405. INDIAN MINERAL DEVELOPMENT ACT REVIEW.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a review of the activities that are authorized in this Act by Indian tribes under the authority of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and transmit to the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the review; and

(2) recommendations designed to help ensure that Indian tribes have the opportunity to develop their nonrenewable energy resources; and

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary will transmit to the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the review; and

(2) recommendations designed to help ensure that Indian tribes have the opportunity to develop their nonrenewable energy resources; and

(c) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations provided in this subsection.

SEC. 406. RENEWABLE ENERGY STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and once every 2 years thereafter, the Secretary of Energy shall submit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on energy consumption and renewable energy development potential on Indian land. The report shall identify barriers to the development of renewable energy by Indian tribes, including Federal policies and regulations, and make recommendations regarding the removal of such barriers.

(b) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations provided in this section.

SEC. 407. FEDERAL POWER MARKETING ADMINISTRATIONS.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501) (as amended by section 201) is amended by adding at the end the following:

“SEC. 2608. FEDERAL POWER MARKETING ADMINISTRATIONS.

“(a) DEFINITION OF ADMINISTRATOR.—In this section, the term ‘Administrator’ means—

(1) the Administrator of the Bonneville Power Administration; or

(2) the Administrator of the Western Area Power Administration.

(b) ASSISTANCE FOR TRANSMISSION STUDIES.—In providing discretionary assistance to Indian tribes under paragraph (1), each Administrator shall give priority in funding to Indian tribes that have limited financial capability to conduct such studies.

(c) POWER ALLOCATION STUDY.—(1) Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on Indian tribes’ utilization of Federal power allocations of the Western Area Power Administration, the Bonneville Power Administration, and the Southwestern Power Administration, and the Bonneville Power Administration to or for the benefit
of Indian tribes in their service areas. The report shall identify—

(a) the amount of power allocated to tribes by the Western Area Power Administration, and how the benefit of that power is utilized by the tribes;

(b) the amount of power sold to tribes by other Federal power marketing agencies; and

(c) existing barriers that impede tribal access to and utilization of Federal power, and opportunities to remove such barriers and improve the ability of Federal power marketing administration to facilitate the utilization of Federal power by Indian tribes.

(2) The Power Marketing Administrations shall consult with Indian tribes on a government-to-government basis in developing the report provided in this section.

(c) AUTHORIZATION FOR APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Title V—Nuclear Power

Subtitle A—Price-Anderson Act Authorization

SEC. 501. SHORT TITLE. This subtitle may be cited as the “Price-Anderson Amendments Act of 2002.”


(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 176d(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “August 1, 2002” and inserting “August 1, 2012.”

(c) INDEMNIFICATION OF NONPROFIT EDUCATION CONTRACTORS.—Section 176k of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking “August 1, 2002” and inserting “August 1, 2012.”

SEC. 503. DETERMINATION OF ENERGY LIABILITY LIMIT.-(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 176d(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by adding paragraph (1) and inserting the following:

“(1) In agreements of indemnification entered into under paragraph (a), the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity;

(b) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 176c(a)(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)(1)) is amended by striking “August 1, 2002” and inserting “August 1, 2012.”

(c) INDEMNIFICATION OF NONPROFIT EDUCATION CONTRACTORS.—Section 176k of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking “August 1, 2002” and inserting “August 1, 2012.”

SEC. 505. REPORTS. Section 176p of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking “August 1, 1998” and inserting “August 1, 2008.”

SEC. 506. INFLATION ADJUSTMENT. Section 170t of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(a) by redesignating paragraph (a) as paragraph (b); and

(b) by inserting “August 1, 2012” after paragraph (b).
“(2) Except as provided in subsections (b), (c), and (e), the Secretary may not deliver uranium in any form for consumption by end users in any year in excess of the following amounts:

Annual Maximum Deliveries to End Users
(Million lbs. U.3. equivalent)

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003 through 2009</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>2010</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>2011</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>2012</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>2013 and each year thereafter</td>
<td>... $3,000,000</td>
</tr>
</tbody>
</table>

(3) Except as provided in subsections (b), (c), and (e), no sale or transfer of uranium in any form shall be made unless—

(A) the President determines that the material will have no adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement; and

(1) the price paid to the Secretary will not be less than the fair market value of the material.

(b) EXEMPT TRANSFERS AND SALES.—Section 3112(e) of the USEC Privatization Act (42 U.S.C. 2297h) is amended—

(1) by striking “$140,000,000” and inserting “$365,000,000”; and

(2) by adding at the end the following:

“Such payments shall not exceed the following amounts:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>$30,000,000</td>
</tr>
<tr>
<td>2003</td>
<td>$35,000,000</td>
</tr>
<tr>
<td>2004</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>2005</td>
<td>$50,000,000</td>
</tr>
<tr>
<td>2006</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>2007</td>
<td>$20,000,000</td>
</tr>
</tbody>
</table>

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 3103 of the Energy Policy Act of 1992 (42 U.S.C. 22962-a) is amended by striking “$490,000,000” and inserting “$715,000,000”.

SEC. 513. FAST FLUX TEST FACILITY.

The Secretary of Energy shall not reactivate the Fast Flux Test Facility to conduct—

(1) any atomic energy defense activity,

(2) any space launch activity, or

(3) any program for the production or utilization of nuclear material if the Secretary has determined, in a record of decision, that the program can be carried out at existing operating facilities.

SEC. 514. NUCLEAR POWER 2010.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(2) OFFICE.—The term “Office” means the Office of Nuclear Energy Science and Technology of the Department of Energy.

(3) DIRECTOR.—The term “Director” means the Director of the Office of Nuclear Energy Science and Technology of the Department of Energy.

(4) PROGRAM.—The term “Program” means the Nuclear Power 2010 Program.

(b) ESTABLISHMENT.—The Secretary shall carry out a program to be managed by the Director.

(c) PURPOSE.—The program shall aggressively pursue those activities that will result in regulatory agency approval of implementation, in a phased approach, with joint government/industry cost sharing, which would allow for the construction and startup of new nuclear plants in the United States.

(d) ACTIVITIES.—In carrying out the program, the Director shall—

(1) issue a solicitation to industry seeking proposals from joint venture project teams comprised of reactor vendors and power generation companies to participate in the Nuclear Power 2010 program;

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear steam supply systems and major equipment suppliers, and plant owner/operators, with strong attractive incentives to build and operate new plants in the United States;

(3) conduct the Nuclear Power 2010 program consistent with the findings of “A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010” issued by the Near-Term Deployment Working Group of the Nuclear Energy Research Advisory Committee of the Department of Energy;

(4) rely upon the expertise and capabilities of the Department of Energy national laboratories and sites in the areas of advanced nuclear fuel cycles and fuel fabricability, consideration of existing lead laboratory designations and the unique capabilities and facilities available at each national laboratory and site;

(5) pursue deployment of both water-cooled and gas-cooled reactor designs on a dual track basis that will provide maximum potential for the success of both;

(6) include participation of international collaborators in research and design efforts where beneficial; and

(7) seek to accomplish the essential regulatory and technical work, both generic and design-specific, to make possible new nuclear plants within this decade.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section such sums as are necessary for fiscal year 2003 and for each fiscal year thereafter.

SEC. 515. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) before the Federal Government takes any irreversible step in the disposal of spent nuclear fuel, Congress must determine whether the spent fuel in the repository should be treated as waste subject to permanent burial or should be treated as a resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

(b) DEFINITIONS.—In this section:

(1) ASSOCIATE DIRECTOR.—The term “Associate Director” means the Associate Director of the Office.

(2) OFFICE.—The term “Office” means the Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) ESTABLISHMENT.—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(d) HEAD OF OFFICE.—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(e) DUTIES OF THE ASSOCIATE DIRECTOR.—

(1) IN GENERAL.—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) PARTICIPATION.—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(f) ACTIVITIES.—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to the health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United States, if the country in which the collaborator is located is unable to provide for their support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles and reactors conducted by the Office of Nuclear Energy Science and Technology.

(j) GRANT AND CONTRACT AUTHORITY.—The Secretary may make grants and contracts, or enter into agreements with any national laboratory or organization, for the purposes of the research projects and activities described in this section.

(k) REPORT.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

SEC. 516. DECOMMISSIONING PILOT PROGRAM.

The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998, Department of Energy report on the reactor.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.
Title C—Growth of Nuclear Energy

SEC. 521. COMBINED LICENSE PERIODS.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking “c. Each such” and inserting the following:

“c. LICENSE PERIOD.—

“(1) IN GENERAL.—Each such;” and

(2) by adding at the end the following:

“(2) CONSTRUCTION.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.”.

Subtitle D—NRC Regulatory Reform

SEC. 531. ANTITRUST REVIEW.

(a) IN GENERAL.—Section 106 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

“d. ANTITRUST LAWS.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.

“(2) ACTION BY THE ATTORNEY GENERAL.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.

“(3) INFORMATION.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).

“(4) EFFECT OF DETERMINATION.—This subsection shall not apply to such classes or types of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.”.

(b) CONFORMING AMENDMENT.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135c) is amended by adding at the end the following:

“(d) APPLICABILITY.—This subsection does not apply to any additional applications for a license to construct or operate a utilization facility under section 103 or 104b., that is filed on or after the date of enactment of subsection d.”.

SEC. 532. DECOMMISSIONING.

(a) IN GENERAL.—Title I of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

“(c) LIQUIDATION FUND.—

“(1) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 176c. of that Act (42 U.S.C. 2210(c)) is terminated.”.

Subtitle E—NRC Personel Crisis

SEC. 541. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

“y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has expertise critical to the performance of the duties of the Commission.”.

SEC. 542. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

DIVISION B—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE VI—OIL AND GAS PRODUCTION

SEC. 601. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVES.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

“Sec. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.”;

(2) by striking section 237(e) (42 U.S.C. 6283(e)); relating to the expiration of section of summer fill and fuel budgeting programs; and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act) and its heading.

(b) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended by striking the items relating to part D of title I and part D of title II.

SEC. 602. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

(a) TIMELY ACTION ON PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—

(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to the sums otherwise available for appropriation for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b).

SEC. 603. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after “acreage held in special tar sand areas” the following: “as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or community agreement, or for which royalty, including credits for royalty in kind, was paid in the preceding calendar year.”.

SEC. 604. ORPHANED AND ABANDONED WELLS ON FEDERAL LAND.

(a) ESTABLISHMENT.—(1) The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program to ensure within 3 years after the date of enactment of this Act, remediation, reclamation, and closure of orphaned oil and gas wells located on lands administered by the land management agencies of the Department of the Interior and the United States Forest Service that are—

(A) abandoned;

(B) orphaned; or

(C) drilled for more than 5 years and having no beneficial use.

(2) The program shall include a means of ranking critical sites for priority in remediation based on potential environmental harm, other land use priorities, and public health and safety.

(3) The program shall provide that responsible parties be identified wherever possible and that the costs of remediation be recovered.

(b) TECHNICAL AMENDMENTS.—(1) In carrying out the program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located, and shall consult with the Secretary of Energy, and the Interstate Oil and Gas Compact Commission.

(2) PLAN.—Within 6 months from the date of enactment of this section, the Secretary of the Interior shall...
Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a). Copies of the plan shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) AUTHORIZATION OF APPROPRIATIONS.—There shall be appropriated to the Secretary of the Interior $5,000,000 for each of fiscal years 2003 through 2005 to carry out the activities provided for in this section.

SEC. 605. OVERTHROWN AND ABANDONED OIL AND GAS WELL PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish a program to provide technical assistance to States to assist States to facilitate State efforts over a 10-year period to ensure a practical and economical remediation of environmental problems caused by orphaned and abandoned exploration or production well sites on State and private lands. The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of oil and gas abandonment and orphaned wells on State and private lands.

(b) PROGRAM ELEMENTS.—The program should include—

(1) mechanisms to facilitate identification of responsible parties wherever possible;

(2) a strategy for targeting critical sites based on factors such as other land use priorities, potential environmental harm and public visibility; and

(3) information and training programs on best practices for remediation of different types of sites.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for the activities under this section $5,000,000 for each of fiscal years 2003 through 2005 to carry out the provisions of this section.

SEC. 606. OFFSHORE DEVELOPMENT.

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

“(k) SUSPENSION OF OPERATIONS FOR SUBSURFACE EXPLORATION.—Notwithstanding any other provision of law or regulation, the Secretary may grant a permit to the operator to suspend operations under any lease to allow the lessee to reprocess or reinterpret geologic or geophysical data beneath allochthonous salt sheets, when in the Secretary’s opinion it is necessary to prevent waste caused by the drilling of unnecessary wells, and to maximize ultimate recovery of hydrocarbon resources under the lease. Such suspension shall be limited to the minimum period of time the Secretary determines is necessary to achieve the objectives of this subsection.”

SEC. 607. COALBED METHANE STUDY.

(a) STUDY.—The National Academy of Sciences shall conduct a study on the effects of coalfied methane production on surface and groundwater resources.

(b) DATA ANALYSIS.—The study shall analyze available hydrogeologic and water quality data, along with other pertinent environmental or other information to determine—

(1) adverse effects associated with surface or subsurface disposal of waters produced during extraction of coalfied methane;

(2) depletion of ground water aquifers or drinking water sources associated with production of coalfied methane;

(3) any other significant adverse impacts to surface or groundwater resources associated with production of coalfied methane; and

(4) production techniques or other factors that can mitigate adverse impacts from coalfied methane development.

(c) RECOMMENDATIONS.—The study shall analyze existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or water resources attributable to coalfied methane development.

(d) REPORT TO CONGRESS.—The Secretary of Energy shall report to Congress within 6 months of the study on—

(1) the findings and recommendations of the study;

(2) the Secretary’s agreement or disagreement with each of its findings and recommendations; and

(3) any recommended changes in funding to address the impacts of coalfied methane production on surface and water resources.

SEC. 608. FISCAL POLICIES TO MAXIMIZE RECOVERY OF DOMESTIC OIL AND GAS RESOURCES.

(a) EVALUATION.—The Secretary of Energy, in coordination with the Secretaries of the Interior, Commerce, and Treasury, Indian tribes and the Interstate Oil and Gas Compact Commission, shall evaluate the impact of existing Federal, State, and tax and royalty policies on the development of domestic oil and gas resources and on revenues to Federal, State, local and tribal governments.

(b) SCOPE.—The evaluation under subsection (a) shall—

(1) analyze the impact of fiscal policies on oil and natural gas exploration, development drilling, and production under different price scenarios, including the impact of the individual and corporate Alternative Minimum Tax, State and local production taxes and fixed royalty rates during low price periods;

(2) assess the effect of existing Federal and State fiscal policies on investment under different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, deep and deviated wells, coalfied methane and other unconventional oil and gas formations;

(3) assess the extent to which Federal and State fiscal policies negatively impact the ultimate recovery of resources from existing fields and fields that have yet to be developed, especially in water depths less than 800 meters, of the Gulf of Mexico;

(4) compare existing Federal and State policies with comparable policies in other countries with particular emphasis on similar geological, developmental and infrastructure conditions; and

(5) evaluate how alternative tax and royalty policies, including counter-cyclical measures, could increase recovery of domestic oil and natural gas resources and revenues to Federal, State, local and tribal governments.

(c) POLICY RECOMMENDATIONS.—Based upon the findings of the evaluation under subsection (a), a report describing the findings and recommendations shall be provided to the President, the Congress, the Governors of the member States of the Interstate Oil and Gas Compact Commission, and Indian tribes having an oil and gas lease approved by the Secretary of the Interior. The recommendations should ensure that the public interest be served in receiving the economic benefits of tax and royalty revenues balanced with the broader societal security and economic interests in maximizing recovery of domestic resources. The report should include recommendations regarding actions to—

(1) ensure stable development drilling during periods of low oil and/or natural gas prices to maintain reserve replacement and deliverability;

(2) minimize the negative impact of a volatile oil price environment on the development of the domestic oil and gas industry and exploration and production;

(3) ensure a consistent level of domestic activity to encourage the education and retention of a technical workforce; and

(4) maintain production capability during periods of low oil and/or natural gas prices.

(d) ROYALTY GUIDELINES.—The recommendations required under (c) should include guidelines for royalty resource holders as to the appropriate level of royalties given geology, development cost, and the national interest in maximizing recovery of oil and gas resources.

(e) REPORT.—The study under subsection (a) shall be completed not later than 18 months after the date of enactment of this Act. The report and recommendations required in (c) shall be transmitted to the President, Congress, Indian tribes, and the Governors of the member States of the Interstate Oil and Gas Compact Commission.

SEC. 609. STRATEGIC PETROLEUM RESERVE.

(a) FULL CAPACITY.—The President shall—

(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6221 et seq.) to full capacity as soon as practicable;

(2) acquire petroleum for the Strategic Petroleum Reserve by the most practicable and cost-effective means, including the acquisition of crude oil the United States is entitled to receive in kind as royalties from production on Federal land; and

(3) ensure that the fill rate minimizes impacts on petroleum markets.

(b) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a plan to—

(1) eliminate any infrastructure impediments that may limit maximum drawdown capability; and

(2) determine whether the capacity of the Strategic Petroleum Reserve on the date of enactment of this section is adequate in light of the increasing consumption of petroleum and the reliance on imported petroleum.

SEC. 610. HYDRAULIC FRACTURING.

Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by adding at the end the following:

“(c) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—

“(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.

“(a) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources at the basin, and within specific regions, States, or portions of States.

“(b) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.

“(c) STUDY ELEMENTS.—The study conducted under subparagraph (a) shall, at a minimum, examine and make findings as to whether—

“(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, States or portions of States;

“(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and

“(iii) there are any necessary actions that may reduce or eliminate any such endangerment.”
"(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLoGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground sources of drinking water of hydraulic fracturing in a particular type of geologic formation:

(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (I) (B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

(ii) In the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State. Subparagraph (4) of this subsection shall apply to any determination by the Administrator.

(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking a separate study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

"(B) REGULATION UNNECESSARY.—The Administrator shall not regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This paragraph (3) shall apply to any such determination by the Administrator under this part prior to the effective date of this subsection.

"(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection activity under this part.

"(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term ‘hydraulic fracturing’ means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

"(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 306b).

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated to the Administrator of the Environmental Protection Agency $100,000 for fiscal year 2003, to remain available until expended, for a grant to the United States Geological Survey, under section 307 of the Environmental Protection Act of 1970 (42 U.S.C. 4817), to carry out the purposes of this section.

SEC. 612. PRESERVATION OF OIL AND GAS RE-SOURCE DATA.

The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological surveys to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.

SEC. 613. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POwDER RIVER BASIN.

The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of Federal and non-Federal coal and oil and gas resources in the Powder River Basin. The Secretary shall report to Congress on its plan to resolve these conflicts.

TITLE VII—NATIONAL GAS PIPELINES

Subtitle A—Alaska Natural Gas Pipeline

SEC. 701. SHORT TITLE.

This subtitle may be cited as the ‘‘Alaska Natural Gas Pipeline Act of 2002’’.

SEC. 702. FINDINGS.

The Congress finds that:

(1) Construction of a natural gas pipeline system from the Alaskan North Slope to United States markets is in the national interest and will enhance national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demands for natural gas in the United States.

(2) The Congress issued a conditional certificate of public convenience and necessity for the Alaska Natural Gas Transportation System, which remains in effect.

SEC. 703. PURPOSES.

The purposes of this subtitle are—

(1) to provide a statutory framework for the expansion approved, conditional and initial operation of an Alaska natural gas transportation project, as an alternative to the framework provided by the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–T196), which remains in effect;

(2) to establish a process for providing access to such transportation project in order to promote competition in the exploration and production of Alaska natural gas;

(3) to clarify Federal authorities under the Alaska Natural Gas Transportation Act; and

(4) to authorize Federal financial assistance to an Alaska natural gas transportation project as provided in this subtitle.

SEC. 704. ISSUEmCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NEED.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–T196), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity with respect to the construction and operation of an Alaska natural gas transportation project other than the Alaska Natural Gas Transportation System.

(b) ISSUANCE OF CERTIFICATE.—(I) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717(e)).

(2) In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 705.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTES.—No license, permit, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the submerged lands Act) beneath the continental shelf of, or adjacent to, the United States; or

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 706, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of open seasons, be consistent with the purposes set forth in section 703(2) and, for any open season for capacity beyond the initial capacity, provide the opportunity for the trans- portation of natural gas from the Prudhoe Bay and Point Thompson units.

The Commission shall issue such regulations no later
than 120 days after the enactment of this subtitle.

(f) PROJECTS IN THE CONTINUOUS UNITED STATES.—Applications for additional or expanded access that may be necessary to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent practicable, the Commission may order the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.

(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued by the Commission for an Alaska natural gas transportation project shall conduct a study of in-state needs, including the Alaska natural gas transportation project for in-state access.

(h) ALASKA ROYALTY GAS.—The Commission, upon request of the Governor of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State’s royalty gas for local consumption needs within the State. The Commission may issue regulations to carry out the provisions of this section.

SEC. 706. PIPELINE EXPANSION.

(a) ESTABLISHMENT.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(C) of that Act (42 U.S.C. 4332(2)(C)) with respect to an Alaska natural gas transportation project under section 704. The Commission shall prepare a single environmental statement under this section, consolidate all significant environmental reviews of all Federal agencies considering any aspect of the project.

(b) DUTIES.—The Federal Coordinator shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(C) of that Act (42 U.S.C. 4332(2)(C)) with respect to an Alaska natural gas transportation project under section 704. The Commission shall prepare a single environmental statement under this section, consolidate all significant environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies authorized to function in the construction and operation of an Alaska natural gas transportation project under section 704 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section no later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.

(e) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.

(f) REQUIREMENTS.—Before ordering an expansion the Commission shall:

(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including the incremental expansion investment);

(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;

(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion service will be undertaken and implemented on a reasonable rate of return basis consistent with the then-effective tax rate of the Alaska natural gas transportation project; and

(4) determine that the expansion will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;

(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;

(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;

(7) ensure that all necessary environmental reviews have been completed; and

(8) find that all upstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.

(2) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—The Commission shall require that any certificate of public convenience and necessity authorizing the construction and operation of a certificate of public convenience and necessity issued, modified, or amended by the Commission pursuant to section 704 shall be treated as the effect of any Alaska natural gas transportation project is a firm transportation agreement with the public convenience and necessity authorizing such agreement.

(3) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any agreements with respect to any natural gas pipeline located outside the State of Alaska.

(c) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 707. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established as an independent establishment, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects, and the Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall:

(1) be appointed by the President, by and with the advice of the Senate;

(2) hold office at the pleasure of the President, and

(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).

(b) DUTIES.—The Federal Coordinator shall be responsible for—

(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and

(2) ensuring the compliance of Federal agencies with the requirements of this title.

SEC. 708. PIPELINE EXPANSION.

(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine—

(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle; and

(2) the constitutionality of any provision of this subtitle, or any decision made or action taken thereunder; or

(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.

(b) DEADLINE FOR FILING CLAIM.—Claims arising out of this subtitle shall be brought not later than 60 days after the date of the decision or action giving rise to the claim.

(c) EXPELITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest as described in section 702 of this title.

(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by adding the following paragraph:

“(2) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest described in section 2 of this Act.”.

SEC. 709. STATE JURISDICTION IN-STATE DELIVERY OF NATURAL GAS.

(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 711b) and shall be subject to the jurisdiction of the Federal Energy Regulatory Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subsection, except as provided in subsection (d)(4)(H) of this Act, shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.

(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. To the extent practicable, the Commission shall also coordinate such rates with the Commission, pursuant to Section 17(b) of the Natural Gas Act (15 U.S.C. 717p), shall confer with the State of...
Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.

SEC. 710. LOAN GUARANTEE.

(a) AUTHORITY.—The Secretary of Energy may guarantee not more than 80 percent of the principal, any part of which is guaranteed, will not exceed $10,000,000,000.
(b) CONDITIONS.—(1) The Secretary of Energy may make a loan under this section for the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) with the Commission not later than 18 months after the date of enactment of this subsection.

2. A loan guaranteed under this section shall be made by a financial institution subject to the examination of the Secretary.

3. The Secretary of Energy may issue regulations, including term, maximum size, collateral requirements and other features shall be determined by the Secretary.

(c) LIMITATION ON AMOUNT.—Commitments to guarantee a loan under section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term of a certificate of public convenience and necessity issued under section 704(b) of this Act or for an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) with the Commission not later than 18 months after the date of enactment of this subsection.

For purposes of this subsection:
(1) The term “Alaska natural gas” means natural gas derived from the area of Alaska including Alaska in the Polar North latitude.
(2) The term “Alaska natural gas transportation project” means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—
(A) the Alaska Natural Gas Transportation Act of 1976, as amended (Public Law 94-691); or
(B) section 704 of this Act.
(3) The term “Alaska Natural Gas Transportation System” means the Alaska natural gas transportation project described under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President’s Decision.
(b) CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.

(a) SAVING PROVISION.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or other federal findings or waivers issued in accordance with that Act.

(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any permit, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term of a certificate to expedite the environmental review or other authorizations to expedite the environmental review for similar projects.

(c) INSPECTION AND MONITORING.—The Secretary of Energy shall require the sponsor of the Alaska Natural Gas Transportation System to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President’s Decision.
(c) LIMITATION ON AMOUNT.

(d) REGULATIONS.

(d) REPORT.

SEC. 712. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission 18 months after the date of enactment of this title, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.
(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.
(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).
(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), he shall submit a report containing the results of the study, his recommendations, and any proposals for legislation to implement his recommendations to the Congress within 6 months after the expiration of the Secretary of Energy’s authority to guarantee a loan under section 710.

SEC. 713. DECISION.

(a) TIMELINESS.—The Secretary of Energy shall submit a report containing the results of the study within 6 months after the date of enactment of this Act.
(b) CONCLUSION.—The Secretary shall submit to Congress the findings of the study along with any recommendations for change. For purposes of this subsection, Alaska residents shall be defined as those individuals eligible to vote within the State of Alaska on the date of enactment of this Act.
(b) Within 1 year of the date the report is transmitted to Congress, the Secretary shall establish within the State of Alaska, at such locations as are appropriate, one or more training centers for the express purpose of training Alaska residents in the skills required to construct, maintain, and operate Alaska natural gas pipelines.
(c) In implementing the report and program described in this subsection, the Secretary shall consult with the Alaskan Governor.
(d) There are authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000 for the purposes of this subsection.

Subtitle B—Operating Pipelines

SEC. 721. ENVIRONMENTAL REVIEW AND PERMITTING.

(a) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.
(b) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—
(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,
(2) the Chairman of the Federal Energy Regulatory Commission,
(3) the Director of the Bureau of Land Management,
(4) the Director of the United States Fish and Wildlife Service,
(5) the Commanding General, United States Army Corps of Engineers,
(6) the Chief of the Forest Service,
(7) the Administrator of the Environmental Protection Agency,
(8) the Chairman of the Advisory Council on Historic Preservation, and
(9) the heads of such other agencies as the Chairman of the Council on Environmental Quality may designate the Chairman of the Federal Energy Regulatory Commission deem appropriate.
(c) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the interagency task force and the Senators for the memorandum of understanding not later than 1 year after the date of the enactment of this section.

Subtitle C—Pipeline Safety

PART I—SHORT TITLE; AMENDMENT OF TITLE 49

SEC. 741. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the “Pipeline Safety Improvement Act of 2002”.
(b) AMENDMENT OF TITLE 49, UNITED STATES CODE—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be to a section or other provision of title 49, United States Code.

PART II—PIPELINE SAFETY IMPROVEMENT ACT OF 2002

SEC. 761. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this subtitle, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General’s Report (RT-2000-069).
(b) REPORTS TO THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) have been reviewed, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, a copy of each report prepared pursuant to subsection (a). The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS TO THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary’s progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 762. NSTS SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1131 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) REPORT TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1131(a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 763. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall be responsible to the Secretary of Commerce for ensuring that all operators of pipeline personnel are qualified to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall provide for training and qualification of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, shall be responsible for certifying the plans. The Secretary may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans for certification of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.

(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to determine if an individual is qualified to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and qualification of pipeline personnel and demonstrate safety and proper performance. The Secretary may review the plans and determine if they are sufficient to provide a safe operating environment.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a report containing an evaluation of the effective-ness of operator qualification and training efforts, and additional qualitative information to improve public safety and protect the public welfare.

(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.

(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

SEC. 764. PIPELINE INTEGRITY INSPECTION PROGRAM.

Section 60109 is amended by adding at the end the following:

(“c) INTEGRITY MANAGEMENT.—

(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to identify leaks and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

(2) CRITERIA FOR PROGRAM STANDARDS.—In promulgating regulations under this section, the Secretary shall ensure that the regulations are based on risk analysis and each plan shall include, at a minimum—

(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods. The assessment period shall be no less than every 5 years unless the Department of Transportation Inspector General, after consultation with the Secretary determines there is a sufficient capability or it is deemed unnecessary because of more technologically appropriate monitoring or creates undue interruption of necessary supply to fulfill the requirements under this paragraph;

(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and

(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.

(3) CRITERIA FOR PROGRAM STANDARDS.—In determining the frequency and method of gas and hazardous liquid pipeline integrity assessment and operation, the Secretary shall consider the following:

(a) IN GENERAL.—The Secretary, Administrator, or Director, respectively, shall make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator’s plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State’s proposals and work in consultation with the States and operators to address safety concerns.

(b) REPORT TO CONGRESS.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.

(2) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a report containing each recommendation on pipeline safety and the operator’s pipeline integrity management plan. The process shall include—

(“c) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator’s pipeline integrity plan. The process shall include—

(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide local officials with the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;

(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;

(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or the submission of written comments through traditional or electronic means;

(D) the extent to which an operator of a public pipeline facility must provide a public forum sponsored by the Secretary or in another manner for receiving input from the local officials or in the evaluation of that input; and

(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.”

SEC. 765. ENFORCEMENT.

(a) IN GENERAL.—Section 60112 is amended—

(1) by striking subsection (a) and inserting the following:

(“a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may designate a pipeline facility is hazardous if the Secretary decides that—

(1) operation of the facility is or would be hazardous to life, property, or the environment; or

(2) the facility is, or would be, constructed, or operated, or a component of the facility is, or would be, constructed, or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.”

(b) by striking “is hazardous,” in subsection (a) and inserting “is, or would be, hazardous.”

SEC. 766. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT-TO-KNOW.

(a) Section 60116 is amended to read as follows:

“§ 60116. Public education, emergency preparedness, and community right-to-know

(1) PUBLIC EDUCATION PROGRAMS.—(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a pipeline facility and the mode of operation of the pipeline facility and the mode of operation of the pipeline. The program shall include training and other information regarding pipeline facility integrity and the prevention of accidental releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures. The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review the existing public education program and modify the program as necessary. The completed program shall include activities to adapt to affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary in the case of an
intrasate pipeline facility operator, the appro-
priate State agency and shall be periodically re-
viewed by the Secretary or, in the case of an
intrasate pipeline facility operator, the appro-
priate State agency.

“(3) The Secretary may issue standards pre-
scribing the elements of an effective public edu-
cation program. The Secretary may also develop mater-
ials to assist in the implementation of such programs.

“(b) EMERGENCY PREPAREDNESS.—

(1) OPERATOR LIASON.—Within 12 months after the date of enactment of the Pipeline Safety
Improvement Act of 2002, an operator of a gas trans-
mission or hazardous liquid pipeline facility shall
initiate and maintain liaison with the State authority. The appropriate commission or local emergency
planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and
Community Right-to-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.

(2) INFORMATION.—An operator shall, upon request, make available to the State emergency
response commissions and local emergency plan-
ning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the informa-
tion to the public, the information described in
section 60102(d), the operator’s program for in-
tegrity management, and information about the
facility’s emergency response program. The informa-
tion about the facility shall also include, at a mini-
num—

(A) the business name, address, telephone
number, and operator, including a 24-hour emergency
contact number;

(B) a description of the facility, including pipe
diameter, the product or products carried,
emergency contact number;

(C) with respect to transmission pipeline fa-
cilities, maps showing the location of the facility and,
where public, any high consequence areas which the pipeline facility traverses or ad-
joins or abuts;

(D) a summary description of the integrity
management program to assist safety and
protection for the environment; and

(E) a point of contact to respond to questions from emergency response representatives.

(3) SMALLER COMMUNITIES.—In a community
without a local emergency planning committee, the
operator shall maintain liaison with the police, fire
department, and other emergency response agencies.

(4) PUBLIC ACCESS.—The Secretary shall pre-
scribe requirements for public access, as appro-
priate to the program, including a requirement that the information be made available to the public by widely accessible computerized database.

(5) COMMUNITY RIGHT-TO-KNOW.—Not later
than 12 months after the date of enactment of the
Pipeline Safety Improvement Act of 2002, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of the facility or a map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these pro-
gams to their activities to promote pipeline safety.

“(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—

“(1) make available to the public—

(A) a safety-related condition report filed by an operator under section 60102(h)(2); and

(B) a report of a pipeline incident filed by an operator;

“(C) the results of any inspection by the Of-
icine of Pipeline Safety or a State regulatory offi-
cial; and

“(D) a description of any corrective action taken in response to a safety-related condition
reported under subparagraph (A), (B), or (C); and

“(2) prescribe requirements for public access, as appropriate, to integrity management pro-
gram information prepared under this chapter, including requirements that will ensure data access
costs are minimized and the greatest extent feasible to the public;

“(b) SAFETY CONDITION REPORTS.—Section
60102(h)(2) is amended by striking “authori-
ties,” and inserting “officials, including the
local emergency planning committees.”

“(c) CONFORMING AMENDMENT.—The chapter
analysis for section 691 is amended by striking the item relating to section 6016 and inserting the following:

“6016. Public education, emergency prepar-
erness, community right-to-know.”.

SEC. 767. PENALTIES.

(a) CIVIL PENALTIES.—Section 6212 is amended
by striking—

(1) by striking “$25,000” in subsection (a)(1) and
inserting “$500,000”;

(2) by striking “$500,000” in subsection (a)(1) and
inserting “$1,000,000”;

(3) by striking subsection (a)(1) and inserting the following:

“The preceding sentence does not
apply to judicial enforcement action under sec-
tion 60116 of this title and
inserting

“60116. Public education, emergency prepar-
erness, community right-to-know.”.

SEC. 768. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTI-
FICATION.—Section 6012 is amended by strik-
ing—

(1) the Secretary shall consider

(A) the natural circumstances, and gravity of the violation, including adverse impact on the
environment;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the
ability to pay, any effect on ability to continue
doing business; and

(C) good faith in attempting to comply; and

(2) the Secretary may consider

(A) the economic benefit gained from the vio-
lation without any discount because of subse-
quent damages; and

(B) other matters that justice requires; and

(2) EXCITER DAMAGE.—Section 60123 is amended
by striking—

(1) by striking “knowingly and willfully”;

(2) by inserting “knowingly and willfully” be-
fore “engages” in paragraph (1); and

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

“A pipeline facility, is aware of damage, and
does not report the damage promptly to the oper-
or of the pipeline facility and to other appro-
priate authorities; or

(c) CIVIL ACTION.—Section 60123(d) is amended to read as follows:

“(1) On the request of the Secretary of Trans-
portation, the Attorney General may bring a civil action in an appropriate district court of the
United States to enforce this chapter, in-
cluding section 6012 of this chapter, or a regu-
lation prescribed or order issued under this
chapter. The court may order appropriate
relief, including a temporary or permanent injunc-
tion, punitive damages, and assessment of civil
penalties conserving the same factors as pre-
scribed for the Secretary in an administrative
case under section 6012.".

SEC. 769. MANDATORY TERMINATION OF
AGREEMENT.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agree-
ment.
for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The (f) a copy of the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary otherwise determines.

SEC. 789. IMPROVED DATA AND DATA AVAILABILITY.

(a) In General.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of hazardous liquid pipeline data to revise the causes categories on the incident report forms to eliminate overlapping and confusing categories and include the following components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized data.

(b) Report of Releases Exceeding 5 Gallons.—Section 60117(b) is amended—

(1) by inserting “(1)” before “To”;

(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

inserting before the last sentence the following:

“2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than 5 gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter and to the environment. The record for the Secretary each release to the environment under this paragraph must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and environment, and the response undertaken to control the release.”

“3) During the course of an incident investigation, a person owning or operating a pipeline facility must retain the information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request.”

and

indenting the first word of the last sentence and inserting “(4)” before “The Secretary” in that sentence.

(c) Penalty Authorities.—(1) Section 60125(d) is amended by striking “60116(c)” and inserting “60117(b)(3)”.

(2) Section 60123(a) is amended by striking “60116(c)” and inserting “60117(b)(3)”.

(d) Establishment of National Depository.—Section 60117 is amended by adding at the end the following:

“(1) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Administration and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.”

SEC. 770. RESEARCH AND DEVELOPMENT.

(a) Innovative Technology Development.—

(1) IN GENERAL.—As part of the Department of Transportation’s research and development program, the Secretary of Transportation shall direct research attention to the development of alternate technologies to—

(A) improve the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(B) ensure the feasibility of the use of robots on pipelines that cannot accommodate internal inspection devices available on the date of enactment;

(C) develop innovative techniques measuring the structural integrity of pipelines;

(D) improve the capability, reliability, and practicality of external leak detection devices; and

(E) develop and improve alternative technologies to identify and monitor outside force damage to pipelines.

(2) Cooperative Program.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.

(b) Pipeline Safety and Reliability Research and Development.—

(1) In general.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—

(A) shall include materials inspection techniques, risk assessment methodology, and information systems; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas and hazardous releases from pipeline facilities regulated under applicable provisions of law, controlling the operation of pipelines.

(2) Purpose.—The purpose of the cooperative research program shall be to promote pipeline safety research and development, including real-time damage monitoring; ensure long-term safety, reliability and service life for existing pipelines; expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies; develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment; develop innovative techniques to measure the structural integrity of pipelines and prevent pipeline failures; develop improved materials and coatings for use in pipelines; improve the capability, reliability, and practicality of external leak detection devices; and identify underground environments that might lead to shortened service life; enhance safety in pipeline siting and land use; minimize the environmental impact of pipelines; demonstrate technologies that improve pipeline safety, reliability, and service life; provide risk assessment tools for optimizing risk mitigation strategies; provide highly secure information systems for controlling pipeline operations; and coordinate with the Secretary of Energy, the national laboratories, universities, and industry research organizations.

(c) Implementation.—The Secretary of Transportation shall implement a research and development program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of entities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety groups, and professional and technical societies.

(d) Federal Assistance.—(1) The Secretary of Transportation shall provide for Federal assistance for the demonstration project under this section. The Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, research and development agreements, and federal assistance grants, to assist any State, institution, or State, local, or regional governmental body, to carry out the research, development, and demonstration activities under this paragraph.

(2) Authorization.—The Secretary of Transportation may use any amounts available for any purpose authorized under this paragraph (other than data obtained from a pipeline performance tracking initiative).

(e) Definition.—For purposes of this section, the term ‘pipeline’ means an underground system for the transportation of natural gas or hazardous liquid, including any component of such a system, and includes any facility that is part of such a system that is used for transporting natural gas or hazardous liquid, including any component of such a facility.
Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, testing, and evaluation program under section 770(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration activities conducted under that subchapter.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical advice to the Secretary on the purposes of the Advisory Committee.

SEC. 772. AUTHORIZATION OF APPROPRIATIONS. (a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—$30,000,000 for each of the fiscal years 2003, 2004, and 2005 of which $23,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title."

(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:

"(c) GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to carry out section 60107—$20,000,000 for the fiscal years 2003, 2004, and 2005 of which $18,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title.".

(c) OIL SPILLS.—Section 60125 is amended by redesignating subsections (b), (c), (d), (e), and (f) as subsections (e), (f), (g), and (h) and inserting after section 60125 the following:

"(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this title for each of fiscal years 2003, 2004, and 2005."

(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary to carry out programs for carrying out sections 770(b) and 771 of this subtitle—$2,000,000, to be derived from user fees under section 60301 of title 49, United States Code, for each of the fiscal years 2003 through 2007.

(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), such amounts shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention and mitigation of oil spills under sections 770(b) and 771 of this subtitle for each of the fiscal years 2003 through 2007.

(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 770(b) and 771 of this subtitle such amounts as may be necessary for each of the fiscal years 2003 through 2007.

SEC. 773. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking the paragraph heading "(D)" and after "CORRECTIVE ACTION ORDERS.—"; and

(2) by adding at the end the following:

"(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under sections 6002(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing any activity or place the employee on leave until the earlier of the date on which—

(A) the Secretary determines, after notice and opportunity for a hearing, that the employee’s performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

(B) the operator determines the employee has been re-qualified or re-trained as provided for in section 763 of the Pipeline Safety Improvement Act of 2002 and can safely perform those actions.

(3) Action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement, to the extent it is inconsistent with the requirements of this section.

SEC. 774. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

"§60129. Protection of employees providing pipeline safety information.

"(1) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) provided information to provide, or is about to provide, or any knowledge of the employer (or cause to be provided to the employer or Federal Government information relating to any violation of or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

(2) has filed, caused to be filed, or is about to file with (any knowledge of the employer) or cause to be filed with (any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation of or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;

(3) has testified or is about to testify in such a proceeding;

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section shall file a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date on which a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed the violation (a) has occurred, the Secretary can reasonably determine the Secretary’s findings and that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed the violation (A) if the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed the violation (B) if, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under sections 6002(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing any activity or place the employee on leave until the earlier of the date on which—

(A) the Secretary determines, after notice and opportunity for a hearing, that the employee’s performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or

(B) the operator determines the employee has been re-qualified or re-trained as provided for in section 763 of the Pipeline Safety Improvement Act of 2002 and can safely perform those actions.

(3) Action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement, to the extent it is inconsistent with the requirements of this section.

SEC. 775. CORRECTIVE ACTIONS.

(a) IN GENERAL.—If a corrective action order has been issued under this section and a complainant has made the showing required under subsection (a) of this section, the Secretary of Labor shall issue an order requiring the employer to take such corrective action as the Secretary determines is necessary to prevent a recurrence of the violation, and shall afford the employee (or any person acting pursuant to a request of the employee) an opportunity to participate or assist in the corrective action.

(b) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this section shall be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(c) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(1) take affirmative action to abate the violation;

(2) reinstate the complainant to his or her former position together with the compensation, benefits, and other terms, conditions, and privileges associated with his or her employment; and
mandamus proceeding brought under section 60129 of the United States district court for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The recommendations under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(b) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(c) ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in any United States district court in the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

(d) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against any person from whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(e) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

(f) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(g) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor, or subconsultant, or with respect to any person’s agent, deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States, as determined by the Secretary of Labor.

(h) CONTRACTOR DEFINED.—In this section, the term ‘contractor’ means a company that performs pipeline-related functions by contract for a pipeline.

(i) CIVIL PENALTY.—Section 6022(a) is amended by adding at the end the following:

“(3) Each violation for failure to comply with an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.”.

(4) CONFORMING AMENDMENT.—The chapter analysis for title 29, United States Code is amended by adding at the end the following:

“60129. Protection of employees providing pipeline safety information.”.

SEC. 775. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from the national pipeline energy issues study, the Secretary shall convene a public hearing for the purpose of considering those recommendations and determine an appropriate course of action. The Secretary shall consult with the appropriate committees of both Houses of Congress in carrying out this section.

SEC. 776. FINES AND PENALTIES.

The Inspector General of the Department of Transportation shall conduct an analysis of the Department’s assessment of fines and penalties on gas transmission and hazardous liquid pipeline operators, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, the Inspector General shall report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings under these actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

SEC. 777. STUDY OF RIGHTS-OF-WAY.

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining the availability to the public, or the Secretary shall withhold such information if it is information that is described in section 552(b)(6)(A) of title 5, United States Code.

SEC. 778. STUDY OF NATURAL GAS RESERVE.

(a) FINDINGS.—Congress finds that:

(1) In the last few months, natural gas prices across the country have tripled.

(2) In California, natural gas prices have increased twenty-fold, from $3 per million British thermal units to nearly $60 per million British thermal units.

(3) One of the major causes of these price increases is a lack of supply, including a lack of natural gas resources.

(4) The lack of a reserve was compounded by the rapture of an El Paso Natural Gas Company pipeline in Carlsbad, New Mexico on August 1, 2000.

(5) Improving pipeline safety will help prevent similar accidents that interrupt the supply of natural gas and will help save lives.

(b) OF PIPELINE FACILITIES.

The Secretary of Transportation may provide technical assistance to an operator of a pipeline or storage facility, with protecting public safety, or with national security issues; or an officer, employee, or agent in carrying out this Chapter.

The Secretary of Transportation may provide technical assistance to an operator of a pipeline or storage facility, with protecting public safety, or with national security issues; or an officer, employee, or agent in carrying out this Chapter.

(c) REPORT TO CONGRESS.—The Secretary shall provide a report to Congress containing a narrative description of the actions taken by the Secretary in response to such an attack, in appropriate form as determined by the Secretary, containing a summary of determinations made by the Secretary during the preceding year to withhold information from release under paragraph (1).

SEC. 779. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES.

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network. The Federal Energy Regulatory Commission shall prepare and submit to the Senate Committee on Energy and Natural Resources and the appropriate committee of the House of Representatives a report setting forth the results of the study.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Senate Committee on Energy and Natural Resources and the appropriate committee of the House of Representatives a report setting forth the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

PART II.—PIPELINE SECURITY SENSITIVE INFORMATION

SEC. 781. MEETING COMMUNITY RIGHT TO KNOW WITHOUT SECURITY RISKS.

Section 60117 is amended by adding at the end the following:

“(7) WITHOLDING CERTAIN INFORMATION.—(1) IN GENERAL.—Notwithstanding any other provision of this chapter requiring the Secretary to provide information obtained by the Secretary or an officer, employee, or agent in carrying out this chapter to State or local government officials, the public, or any other person, the Secretary shall withhold such information if it is information that is described in section 552(b)(6)(A) of title 5, United States Code.

(2) CONDITIONAL RELEASE.—Notwithstanding paragraph (1), upon the receipt of assurances satisfactory to the Secretary that the information will be handled appropriately, the Secretary may provide information to the Secretaries of Commerce, State, or the National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack; or to develop and implement security measures for a pipeline facility;
§ 101. INCREASED FUEL ECONOMY STANDARDS.

(a) REQUIREMENT FOR NEW REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for automobiles that are determined on the basis of the maximum feasible average fuel economy levels for automobiles, taking into consideration the matters set forth in subsection (f) of this section.

(2) FOR ISSUING REGULATIONS.—

(A) NON-PASSENGER AUTOMOBILES.—For non-passenger automobiles, the Secretary of Transportation shall issue the final regulations not later than 15 months after the date of the enactment of this Act.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

“(That, section 32902(b) of title 49, United States Code, is amended by adding at the end the following new subsection:

‘‘(f) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year shall be miles per gallon, the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.’’"

(c) EXPEDITED PROCEDURES.

A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 806(c) of the Defense Authorization Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall:

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM OF CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 806(c) of the Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed pursuant to subparagraph (A) of this paragraph in the same manner as such subparagraph (B) applies.

(d) ENVIRONMENTAL ASSESSMENT.

That, section 32902(b) of title 49, United States Code, is amended by adding at the end the following text:

“(C) The bill provides after the enacting introduction of the necessary new technologies.

(d) E\n
SECONDA":

“TIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

§ 803. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

That, section 32902(f) of title 49, United States Code, is amended to read as follows:

“(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

(1) Technological feasibility.

(2) Economic practicability.


(4) The need of the United States to conserve energy,

(5) The desirability of reducing United States dependence on imported oil.

(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

(7) The effects of increased fuel economy on air quality.

(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

(10) The cost and lead time necessary for the introduction of the necessary new technologies.

(b) Authorization of Appropriations.

There is authorized to be appropriated to the Federal Government, such sums as may be necessary for the development of advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

(c) Authorization for purchase of fuel cell vehicles.

That, section 32906(a)(1) of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking “1993—2004” and inserting “1993 through 2008”;

(2) in subparagraph (B), by striking “2005—2008” and inserting “2009 through 2012”.

(d) PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.

That, section 32906(a)(2) of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking “1993—2004” and inserting “1993 through 2008”;

(2) in subparagraph (B), by striking “2005—2008” and inserting “2009 through 2012”.

(e) PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific needs of the agency for capabilities of light duty trucks; or

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government.

(C) to adjust to limitations on the availability of alternative light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the cost of a comparable non-hybrid vehicle by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers; and

(ii) the real cost of the non-hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(3) PROCUREMENT OF VEHICLES.—
used by an agency in a particular geographic area where the alternative fuel otherwise required to be used in the vehicles is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency.

(c) Definitions.—In this section:

(1) Alternative fuel.—The term ‘alternative fuel’ means that term in section 32901(a)(1) of title 49, United States Code.

(2) Dual fuel vehicle.—The term ‘dual fuel vehicle’ means motor vehicles operated on ‘dual fueled automobile’ in section 32901(a)(3) of title 49, United States Code.

(3) Fleet.—The term ‘fleet’, with respect to dual fueled vehicles, has the meaning given that term with respect to light duty motor vehicles in section 391(9) of the Energy Policy Act of 1992 (42 U.S.C. 13211(9)).

SEC. 807. HYBRID ELECTRIC AND FUEL CELL VEHICLES.

(a) Expansion of Scope.—The Secretary of Energy shall expand the research and development program of the Department of Energy on advanced technologies for improving the environmental cleanliness of vehicles to emphasize research and development on the following:

(1) Fuel cells.

(2) Hybrid electric vehicles.

(3) Advanced vehicle engine and emission control systems.

(4) Advanced batteries and power electronics for hybrid vehicles.

(5) Advanced fuels.

(6) Advanced materials.

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of Energy for the administration of this title of the Energy Policy Act of 1992.

(a) Alternative fueled vehicle.—The term ‘alternative fueled vehicle’ has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(d) Inapplicability to Department of Defense.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–16, 113 Stat. 695; 10 U.S.C. 2302 note).

SEC. 808. DIESEL FUELED VEHICLES.

(a) Diesel Combustion and After Treatment Technologies.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) Goals.—

(1) Compliance with Tier 2 Emission Standards by 2015.—The Secretary shall carry out subsection (a) with a view to developing and demonstrating diesel technologies meeting Tier 2 emission standards not later than 2015.

(2) Tier 2 Emission Standards Defined.—In this subsection, the term ‘Tier 2 emission standards’ means the standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2006, under sections 202 and 211 of the Clean Air Act to apply to passenger cars, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

SEC. 809. FUEL CELL DEMONSTRATION PROGRAM.

(a) Provisions Required.—The Secretary of Energy and the Secretary of Defense shall jointly carry out a program to demonstrate—

(1) fuel cell technologies developed in the PNGV and Freedom Car programs;

(2) fuel cell technologies developed in research and development programs of the Department of Defense;

(3) fuel cell technologies;

(b) Purposes of Program.—The purposes of the program are to identify and support technological advances that are necessary to achieve accelerated availability of fuel cell technology for use both for nonmilitary and military purposes.

(c) Cooperation with Industry.—(1) In general.—The demonstration program shall be carried out in cooperation with industry, including the automobile manufacturing industry and the automotive systems and component suppliers industry.

(2) Cost Sharing.—The Secretary of Energy and the Secretary of Defense shall provide for in-kind support, in cash or in kind, at least one-half of the total cost of carrying out the demonstration program.

(d) Definitions.—In this section:

(1) PNGV Program.—The term ‘PNGV program’ means the Partnership for a New Generation of Vehicles, a cooperative program engaged in by the Departments of Commerce, Energy, Transportation, and Defense, the Environmental Protection Agency, the National Science Foundation, and the National Aeronautics and Space Administration with the automobile industry to develop vehicles with advanced power systems using on-board and off-board energy sources.

(2) Freedom Car Program.—The term ‘Freedom Car program’ means a cooperative research program engaged in by the Department of Energy with the United States Council on Automotive Research as a follow-on to the PNGV program.

SEC. 810. BUS REPLACEMENT.

(a) Requirement for Study.—The Secretary of Transportation shall carry out a study to determine how best to provide for converting the fleet of buses in metropolitan areas and school systems from buses utilizing current diesel technology to—

(1) buses that draw propulsion from onboard fuel cells;

(2) buses that are hybrid electric vehicles;

(3) buses that are fueled by clean-burning fuels, such as renewable fuels (including agricultural-based biodiesel fuels), natural gas, and ultra-low sulphur diesel;

(4) buses that are powered by clean diesel engines or electric;

(5) an assortment of buses described in paragraphs (1), (2), (3), and (4).

(b) Report.—

(1) Requirement.—The Secretary of Transportation shall submit a report on the results of the study on bus fleet conversions under subsection (a) to Congress.

(2) Content.—The report on bus fleet conversions shall include the following:

(A) An assessment of effectuating conversions by the following means:

(i) Replacement of buses.

(ii) Retrofitting existing buses and propulsion systems in buses utilizing currently available diesel technology.

(iii) Other means.

(B) Feasible schedules for carrying out the conversions.

(C) Estimated costs of carrying out the conversions.

(D) An assessment of the benefits of the conversions in terms of emissions control and reduction of fuel consumption.

SEC. 811. AVERAGE FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS.

(a) In General.—Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting ‘‘(1)’’ after the after ‘‘Automobiles:;’’; and

(2) by adding at the end the following new paragraph:

‘‘(2) The average fuel economy standard for pickup trucks manufactured by a manufacturer in a model year after model year 2004 shall not be less than 20.7 miles per gallon. No average fuel economy standard prescribed under another provision of this section shall apply to pickup trucks. ’’

(b) Definition of Pickup Truck.—Section 32901(a) of such title is amended by adding at the end the following new paragraph:

‘‘Pickup truck’’ means a vehicle as defined in regulations prescribed by the Secretary for the administration of this chapter, as
in effect on January 1, 2002, except that such term shall also include any additional vehicle that the Secretary defines as a pickup truck in regulations prescribed for the administration of this chapter before such date.

SEC. 812. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a) of title 23, United States Code, is amended by inserting after "required" the following: "(unless, in the discretion of the State transportation department, the vehicle is being parked on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(c))))."

SEC. 813. DATA COLLECTION.

Section 814(a) of the Department of Energy Organization Act (42 U.S.C. 713) is amended by adding at the end the following: (m) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandates, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information retroactively, not later than December 31, 1998, both on a national basis and a regional basis, including—

(1) the quantity of renewable fuels produced;
(2) the cost of production;
(3) the cost of blending and marketing;
(4) the quantity of renewable fuels blended;
(5) the quantity of renewable fuels imported; and
(6) market price data.

SEC. 814. GREEN SCHOOL BUS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy and the Secretary of Transportation shall jointly establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded only to—

(1) a local governmental entity responsible for providing school bus service for one or more public school systems; or
(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1997 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section shall not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977.

(f) DEFINITIONS.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel bus acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) USES.—Funding under a grant made under this section may only be used to—

(1) have a gross vehicle weight greater than 14,000 pounds;

(2) be powered by a heavy duty engine;

(3) in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model year 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter, and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horse power-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) in the case of ultra-low sulfur fuel school buses, emit not more than—

(A) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of the same line of alternative fuel school buses commercially available at the time the grant is made; or

(B) the applicable following amounts—

(i) for buses manufactured in model year 2002 or 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(ii) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall develop a program to ensure that alternative fuel school buses are deployed to schools in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Secretary shall collect information retroactively, not later than December 31, 1998, both on a national basis and a regional basis, including—

(1) the quantity of alternative fuel school buses and ultra-low sulfur diesel school buses that—

(i) have a gross vehicle weight greater than 14,000 pounds;

(ii) are powered by a heavy duty engine;

(iii) in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model year 2002, 2.5 grams per brake horse power-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter, and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horse power-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(iv) in the case of ultra-low sulfur fuel school buses, emit not more than—

(A) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of the same line of alternative fuel school buses commercially available at the time the grant is made; or

(iii) the applicable following amounts—

(i) for buses manufactured in model year 2002 or 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(ii) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuel school bus" means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, biocompressed petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume;

(2) the term "ultra-low sulfur diesel school bus" means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9001(l) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

SEC. 815. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with public and private organizations for the development of fuel cell-powered school buses, and subsequently with not less than two units of local government using natural gas-powered school buses and the public sector and private sector partners to demonstrate the use of fuel cell-powered school buses.

(b) COORDINATION.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) FUNDING.—No more than $25,000,000 of the amounts authorized under section 815 may be used for carrying out this section for the period encompassing fiscal years 2003 through 2006.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Energy for carrying out sections 814 and 815, to remain available only for the purposes specified—

(1) $50,000,000 for fiscal year 2003;
(2) $60,000,000 for fiscal year 2004;
(3) $70,000,000 for fiscal year 2005; and
(4) $80,000,000 for fiscal year 2006.

SEC. 817. TEMPORARY BIODIESEL CREDIT EXPANSION.

(a) BIODIESEL CREDIT EXPANSION.—Section 32(g)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:

"(2) USE.—"(A) In GENERAL.—A fleet or covered person—

(i) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fuel vehicle requirements of a fleet or covered person under this title, title IV, and title V; but

(ii) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fuel vehicle requirements of a fleet or covered person under title V for 1 or more of model years 2002 through 2005.

(B) APPLICABILITY.—Subparagraph (A) does not apply to a fuel or covered person that is a biodiesel alternative fuel provider described in section 301(a)(2)(A)."

May 1, 2002 CONGRESSIONAL RECORD—SENATE S3717
(b) TREATMENT AS SECTION 90 CREDITS.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—
(1) in the subsection heading, by striking "TREATMENT NOT" and inserting "TREATMENT AS"; and
(2) by striking "shall not be considered" and inserting "shall be treated as".

(c) NATIONAL FUEL EFFICIENCY VEHICLE STUDY AND REPORT.—
(1) DEFINITIONS.—In this subsection:
(A) ALTERNATIVE FUEL.—The term "alternative fuel" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).
(B) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).
(C) LIGHT DUTY MOTOR VEHICLE.—The term "light duty motor vehicle" means the Secretary of Energy.
(D) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) BIODIESEL FUEL EXTENSION STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study—
(A) to determine the availability and cost of light duty motor vehicles that qualify as alternative fueled vehicles under title V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.); and
(B) to compare—
(i) the fuel economy and cost of biodiesel; with
(ii) the availability and cost of fuels that qualify as alternative fuels under title V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—
(A) describes the results of the study conducted under paragraph (2); and
(B) includes any recommendations of the Secretary for legislation to extend the temporary credit provided under subsection (a) beyond model year 2005.

SEC. 818. NEIGHBORHOOD ELECTRIC VEHICLES.
(1) by striking "(a) FUNDING; or a dual fueled vehicle" and inserting "a dual fueled vehicle, or a neighborhood electric vehicle";
(2) by striking "and" at the end of paragraph (13);
(3) by striking the period at the end of subparagraph (14) and inserting "; and"; and
(4) by adding at the end of the following:
"(15) the term "neighborhood electric vehicle" means a vehicle that qualifies as both—
"(i) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and
"(ii) the zero-emission vehicle, as such term is defined in section 86.170-96 of title 49, Code of Federal Regulations.

SEC. 819. CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.
Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:
"(p) CREDITS FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—
"(1) DEFINITIONS.—In this subsection:
\[\text{The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:
\]

(1) In the case of a passenger automobile:

\begin{table}
<table>
<thead>
<tr>
<th>Vehicle Inertia Weight Class</th>
<th>2000 Model Year City Fuel Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 or 1,750 lbs</td>
<td>47.3 mpg</td>
</tr>
<tr>
<td>2,000 lbs</td>
<td>38.3 mpg</td>
</tr>
<tr>
<td>2,500 lbs</td>
<td>29.7 mpg</td>
</tr>
<tr>
<td>3,000 lbs</td>
<td>25.6 mpg</td>
</tr>
<tr>
<td>3,500 lbs</td>
<td>21.3 mpg</td>
</tr>
<tr>
<td>4,000 lbs</td>
<td>18.3 mpg</td>
</tr>
<tr>
<td>4,500 lbs</td>
<td>16.4 mpg</td>
</tr>
<tr>
<td>5,000 lbs</td>
<td>14.1 mpg</td>
</tr>
<tr>
<td>6,000 lbs</td>
<td>12.9 mpg</td>
</tr>
<tr>
<td>7,000 or 8,500 lbs</td>
<td>11.1 mpg</td>
</tr>
</tbody>
</table>

(2) In the case of a light truck:

\begin{table}
<table>
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<tr>
<th>Vehicle Inertia Weight Class</th>
<th>2000 Model Year City Fuel Efficiency</th>
</tr>
</thead>
<tbody>
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<td>18.3 mpg</td>
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<td>7,000 or 8,500 lbs</td>
<td>11.1 mpg</td>
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</tbody>
</table>

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</tr>
<tr>
<td>7,000 or 8,500 lbs</td>
<td>11.1 mpg</td>
</tr>
</tbody>
</table>

(ii) In the case of a light truck:

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<thead>
<tr>
<th>Vehicle Inertia Weight Class</th>
<th>2000 Model Year City Fuel Efficiency</th>
</tr>
</thead>
<tbody>
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</tr>
<tr>
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<td>12.9 mpg</td>
</tr>
<tr>
<td>7,000 or 8,500 lbs</td>
<td>11.1 mpg</td>
</tr>
</tbody>
</table>

(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

(H) VEHICLE INERTIA WEIGHT CREDIT.—The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(2) ALLOCATION.—
"(A) IN GENERAL.—The Secretary shall allocate to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

(2) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—
(ii) the partial credits determined under table 1 in subparagraph (C); and
(ii) the partial credits determined under table 2 in subparagraph (C).

(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

\begin{table}
<table>
<thead>
<tr>
<th>Amount of Credit</th>
<th>Partial Credit for Increased Fuel Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 125% but less than 150% of 2000 model year city fuel efficiency</td>
<td>0.14</td>
</tr>
<tr>
<td>At least 150% but less than 175% of 2000 model year city fuel efficiency</td>
<td>0.21</td>
</tr>
<tr>
<td>At least 175% but less than 200% of 2000 model year city fuel efficiency</td>
<td>0.28</td>
</tr>
<tr>
<td>At least 200% but less than 225% of 2000 model year city fuel efficiency</td>
<td>0.35</td>
</tr>
<tr>
<td>At least 225% of 2000 model year city fuel efficiency</td>
<td>0.50</td>
</tr>
</tbody>
</table>

\begin{table}
<table>
<thead>
<tr>
<th>Amount of Credit</th>
<th>Partial Credit for Maximum Available Power</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 5% but less than 10%</td>
<td>0.125</td>
</tr>
<tr>
<td>At least 10% but less than 20%</td>
<td>0.250</td>
</tr>
<tr>
<td>At least 20% but less than 30%</td>
<td>0.375</td>
</tr>
<tr>
<td>At least 30% or more</td>
<td>0.500</td>
</tr>
</tbody>
</table>

(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

(2) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits, determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 301.

(g) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NON-COVERED FLEETS.

(1) DEFINITIONS.—In this section:
(A) DEDICATED VEHICLE.—The term 'dedicated vehicle' includes—
(ii) a light, medium, or heavy duty vehicle; and
(ii) a neighborhood electric vehicle.

(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—
“(1) operates solely on alternative fuel; and
“(2) is in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or
“(3) is in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

SEC. 820. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) In general.—Section 211 of the Clean Air Act (42 U.S.C. 7521 note) is amended by redesignating subsection (o) as subsection (q) and by inserting after such subsection—
“(r) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUELS INFRASTRUCTURE.—The Secretary shall issue 2 full credits to a fleet or covered person under this title for each alternative fuel vehicle.

(b) General.—For purposes of paragraph (2), alternative fuel vehicle means a motor vehicle that is not covered by this title.

(c) DETERMINATIONS.—(1) The Administrator shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person would have acquired under this title.

(2) The Administrator shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

(3) AMOUNT.—For the purposes of credits under this subsection—
“(A) 1 credit shall be equal to a minimum investment of $250,000 in cash or in kind services, as determined by the Secretary; and
“(B) except in the case of a Federal or State fleet, any portion of the investment may be provided by Federal or State funds.

(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet or covered person for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

SEC. 825. CREDIT PROGRAM FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUELS INFRASTRUCTURE.

(1) DEFINITIONS.—In this section, the term ‘qualifying infrastructure’ means—
“(A) equipment provided to fuel or recharge alternative fueled vehicles;
“(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;
“(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and
“(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the provision, operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

(3) AMOUNT.—For the purposes of credits under this subsection—
“(A) 1 credit shall be equal to a minimum investment of $250,000 in cash or in kind services, as determined by the Secretary; and
“(B) except in the case of a Federal or State fleet, any portion of the investment may be provided by Federal or State funds.

(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet or covered person for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).
“(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calorie standards during the 3 calendar years preceding the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) Periods.—The two periods referred to in this paragraph are—

“(i) April through September; and

“(ii) October through March and October through December.

“(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2004 in a state which has received section 211(h) of the Clean Air Act amendments is not included in the study in subparagraph (A).

“(F) WAIVERS.—

“(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States as a whole;

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply and distribution capacity to meet the requirement.

“(2) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(3) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(G) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment of this Act, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consequences for security, national, regional, or state basis. Such study shall evaluate renewable fuel supplies and prices, blending stock, supply and distribution system capacities. Based on such study the Administrator shall make specific recommendations to the Administrator regarding whether the requirements of paragraph (2) in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2004. This provision shall not be interpreted as limiting the Administrator’s authority to reduce requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

“(H) SMALL REFINERIES.—

“(1) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2007, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. The Administrator shall, based on the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption to the small refinery for no less than two additional years.

“(2) ECONOMIC HARDSHIP.

“(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. On receipt of a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic information.

“(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

“(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption otherwise, the regulations shall provide for the generation of credits by the refinery beginning in the year following such notification.

“(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

“(1) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

“(i) in paragraph (1)—

“(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n) or (o)”;

“(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”;

“(C) in the first sentence of paragraph (2), by striking “and (n)” and insert “(n), or (o)”.

“(2) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

“(1) by redesigning paragraph (5) as paragraph (6); and

“(2) by inserting after paragraph (4) the following—

“(5) EXCLUSION FROM ETHANOL WAIVER.—

“(A) PROMULGATION OF REGULATIONS.—Upon notification accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation for gasoline by virtue of the fact that it is, or contains, such a renewable fuel, if it does not violate a tax or control or prohibition imposed by the Administrator under section 211 of the Clean Air Act, as amended by this Act, and the manufacturer is in compliance with all requests for information under section 211(h) of the Clean Air Act, as amended by this Act. In the event that the safe harbor under this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law.

“(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

“(C) EFFECTIVE DATE.—

“(i) IN GENERAL.—With respect to a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

“(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

“(II) 1 year after the date of receipt of the notification.

“(ii) EXTENSION OF EFFECTIVE DATE.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator on the Administrator’s own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) will result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

“(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

“(bb) may renew the extension under item (aa) for no additional periods, each of which shall not exceed 1 year.

“(D) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of the receipt of the petition.

“(E) SURVEY OF RENEWABLE FUEL MARKET.—

“(1) SURVEY AND REPORT.—Not later than December 1, 2005, and annually thereafter, the Administrator shall—

“(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

“(i) conventional gasoline containing ethanol;

“(ii) reformulated gasoline containing ethanol;

“(iii) conventional gasoline containing renewable fuel; and

“(iv) reformulated gasoline containing renewable fuel; and

“(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

“(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate and shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

“(F) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

“(G) RENEWABLE FUELS SAFE HARBOR.—

“(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, no renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel, shall be deemed defective in design or manufacture by virtue of the fact that it is, or contains, such a renewable fuel, if it does not violate a control or prohibition imposed by the Administrator under section 211 of the Clean Air Act, as amended by this Act, and the manufacturer is in compliance with all requests for information under section 211(h) of the Clean Air Act, as amended by this Act. In the event that the safe harbor under this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law.

“(2) EXCEPTIONS.—This subsection shall not apply to ethers.

“(3) EFFECTIVE DATE.—This subsection shall be effective as of the date of enactment and shall apply with respect to all claims filed on or after that date.

“SEC. 820A. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

“Title III of the Energy Policy Act of 1992 is amended by adding subsection 306 (42 U.S.C. 13215) and inserting the following:

“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

“(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in accordance with which ethanol is blended or introduced into gasoline, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol, or other than nonethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

“(b) BIODIESEL.—

“(1) DEFINITION OF BIODIESEL.—In this subsection, the term ‘biomass’ has the meaning given the term in section 332(f).

“(2) PURCHASING REQUIREMENT.—Each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles
that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in paragraphs (a) and (b) is available at a generically competitive price—

(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

(2) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 321.

(c) EXCEPTON.—This section does not apply to fuel used in vehicles excluded from the definition of ‘fleet’ by subparagraphs (A) through (H) of section 319(1).

SEC. 820B. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEES.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ‘municipal solid waste’ has the meaning given the term ‘solid waste’ in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions to cover any part of the current average yield on out-of-pocket fusion costs of the Secretary relating to the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guarantee.

(c) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as are necessary to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

Subtitle B—Additional Fuel Efficiency Measures

SEC. 821. FUEL EFFICIENCY OF THE FEDERAL FLEET OF AUTOMOBILES.

Section 32917 of title 49, United States Code, is amended to read as follows:—

§32917. Standards for executive agency automobiles

(1) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency’s fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the automobiles.

(a) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency’s fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency’s fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

(d) DEFINITIONS.—In this section:

(1) The term ‘automobile’ does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

(2) The term ‘new automobile’ has the meaning given that term in section 105 of title 5.

(3) The term ‘new automobile’, with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.

SEC. 822. IDLING REDUCTION SYSTEMS IN HEAVY DUTY VEHICLES.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:

“PART K—REDUCING TRUCK IDLING

SEC. 400AAA. REDUCING TRUCK IDLING.

(1) STUDY.—Not later than 18 months after the date of enactment of this section, the Secretary shall, in consultation with the Secretary of Transportation, commence a study to analyze the potential fuel savings resulting from long duration idling of main drive engines in heavy-duty vehicles.

(2) REGULATIONS.—Upon completion of the study under subsection (a), the Secretary may issue regulations requiring the installation of idling reduction systems in all newly manufactured heavy-duty vehicles.

SEC. 831. SHORT TITLE.

This subtitle may be cited as the ‘Federal Reformulated Fuels Act’.

SEC. 832. CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 cities or other geographically dispersed programs to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than 2 years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—The Secretary authorized to the Secretary of Transportation $5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this section.

SEC. 824. FUEL CELL VEHICLE PROGRAM.

Not later than 1 year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timelines for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually in- clude in its annual report to Congress a review of the progress toward meeting the vehicle sales of Energy budget.

Subtitle C—Federal Reformulated Fuels

SEC. 831. SHORT TITLE.

This subtitle may be cited as the ‘Federal Reformulated Fuels Act’.

SEC. 832. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM HYDROGEN SULFIDE ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991(h)) is amended—
SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

(a) Findings.—The Administrator shall make findings that:

(1) the deadline for reducing releases of MTBE to water supplies by June 30, 2002, has expired;

(2) the use of MTBE as a fuel additive is no longer necessary for reformulated gasoline due to the availability of other fuel additives and technological improvements for reformulated gasoline;

(3) the production of MTBE is no longer necessary to meet the gasoline oxygenate standard established by Public Law 101-329;

(4) Congress is aware that gasoline and its components add to the atmospheric and environmental problems of the United States.

(b) Paragraph (a) shall be carried out—

(1) by a State (pursuant to section 9002(h)(7)) acting under paragraph (A) or (B), or both, of section 9012(2).

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.

SEC. 9012. SOIL REMEDIATION.

(a) Findings.—Congress finds that:

(1) soil contamination is a serious and growing problem in the United States;

(2) there is a need to provide additional resources to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other fuel additive that presents a threat to human health, welfare, or the environment;

(b) by inserting “and section 9010” before “(i)” and “(ii)” of subsection (a); and

(c) to carry out section 9012—

(1) to carry out section 9012—

(A) $200,000 for fiscal year 2003; and

(B) $50,000 for each of fiscal years 2004 through 2008.

SEC. 9013. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—The Administrator and the States may use funds made available under section 9001 to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other fuel additive that presents a threat to human health, welfare, or the environment.

(b) APPlicable Authority.—Subparagraph (A) shall be carried out—

(1) in accordance with paragraph (2), except that a State may waive all but a portion of the corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

(2) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).”.

(b) RELEASE PREVENTION AND COMPLIANCE.

Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) is amended by striking section 9010 and inserting the following:

SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

“Funds made available under section 903(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

(1) by a State (pursuant to section 9002(h)(7)) acting under—

(A) a program approved under section 9004; or

(B) State regulations requiring underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

SEC. 9011. BEDROCK BIOREMEDICATION.

(a) In General.—The Administrator shall establish, at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) with established expertise in bioremediation of contaminated bedrock aquifers, a resource center—

(1) to conduct research concerning bioremediation of methyl tertiary butyl ether in contaminated underground aquifers, including contaminated bedrock; and

(2) to provide for States a technical assistance clearinghouse for information concerning innovative technologies for bioremediation described in paragraph (1).

(b) Authorization of Appropriations.—In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9505c(1) of the Internal Revenue Code of 1986—

(1) to carry out section 9003(h)(12), $200,000 for each fiscal year 2003, to remain available until expended;

(2) to carry out section 9010—

(A) $300,000, for each of fiscal years 2004 through 2008;

(3) to carry out section 9011—

(A) $50,000 for each of fiscal years 2003 and 2004;

(B) $30,000,000 for each of fiscal years 2004 through 2008; and

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environment protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance to (A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act; and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(c) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenant; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(d) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.

SEC. 9014. MERCHANT PRODUCER CONVERSION ASSISTANCE.

(a) In General.—The Administrator, in consultation with the Secretary of Energy, may make grants to merchant producers of methyl tertiary butyl ether in motor vehicle fuel sold or used in the United States to carry out activities described in subparagraph (C) to the production of such other fuel additives that, consistent with 21H(c)
“(i) unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment;

(ii) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

(iii) will contribute to replacing gasoline volumes lost under subparagraph (5).

“(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility:

“(i) is located in the United States; and

“(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period beginning on the date of enactment of this paragraph and ending on the effective date of the prohibitions on the use of methyl tertiary butyl ether under paragraph (5).

“(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2003 through 2005.”.

N O EFFECT ON LAW CONCERNING STATE AGRICULTURE REGULATIONS.—Nothing in this Act shall be construed to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.

“(E) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

“(11) DETERMINATION REGARDING A STATE PETITION.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, not less than 30 days after enactment of this paragraph the Administrator must determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements of paragraph (2)(B).

“(B) APPROVAL.—If in the determination in paragraph (A) it is determined that the petition is within thirty days of enactment of this paragraph, the petition shall be deemed approved.”.

“SEC. 834. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in the second sentence of subparagraph (A), by striking ‘‘including the oxygen content requirements subparagraph (B)’’;

(B) by redesigning subparagraphs (A) through (D) as subparagraphs (A) through (D), respectively;

(C) in paragraph (7)—

(i) by striking clause (A);

(ii) by striking clause (B); and

(iii) by redesigning clauses (C) and (D) as clauses (C) and (D), respectively;

(ii) by redesigning clause (iii) as clause (ii); and

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

“(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(A) in subsection (A), by striking ‘‘Within 1 year after the enactment of the Clean Air Act Amendments of 1990’’; and

(B) by adding at the end the following:

“(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

“(i) DEFINITIONS.—In this subparagraph the term ‘‘PADD’’ means a Petroleum Administration for Defense District.

“(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery, the applicable standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during 2009 and 2009, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

“(iii) STANDARDS APPLICABLE TO SPECIFIC REGIONS.—(A) The standards applicable to refineries and importers shall be at least as stringent as the standards promulgated for toxic air pollutants, prior to the date of enactment of this subparagraph, by the Administrator under subpart D of paragraph 80 of title 49, Code of Federal Regulations, to comply with the emissions performance standards described in section 7545 of title 49, Code of Federal Regulations, to comply with the assumptions made in subparagraph (C).

“(B) Applicability of Standards.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to that refinery or importer produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual aggregate quantity of toxic air pollutants produced or distributed by the refinery or importer during calendar years 1999 and 2000.

“(C) AUTHORIZATION OF APPROPRIATIONS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subparagraph (i) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

“(ii) CREDIT PROGRAM.—The Administrator shall establish a credit program under which credits for emissions of toxic air pollutants may reasonably be anticipated to endanger public health or the environment effects of the public health, air quality, and water resources of in—

“(B) in paragraph (3)(A), by striking clause (v);

“(C) in paragraph (7); and

“(D) by redesigning subparagraphs (B) and (C), respectively.

“(ii) by striking subparagraph (B); and

“(i) by striking clause (i); and

“(II) by redesigning clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(i) by striking clause (iii) and

“(II) by redesigning clause (iii) as clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).

“(D) EFFECTIVE DATE.—The amendments made by paragraph (2) shall take effect 270 days after the date of enactment of this paragraph, and inserting the following:

“(II) by redesigning clauses (ii) and (iii) as

“(C) in paragraph (3)(A), by striking clause (v); and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(i) by striking clause (i); and

“(ii) by redesigning clause (iii) as clause (ii); and

“(D) in paragraph (3)(A), by striking clause (iv); and

“(B) in paragraph (3)(A), by striking clause (iv); and

“(ii) by redesigning clause (iv) as clause (iii); and

“(C) in paragraph (3)(A), by striking clause (iii); and

“(B) in paragraph (3)(A), by striking clause (iii); and

“(ii) by redesigning clauses (iii) and (iv) as clauses (ii) and (iii); and

“(D) in paragraph (3)(A), by striking clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).

“(C) in paragraph (3)(A), by striking clause (ii); and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).

“(C) in paragraph (3)(A), by striking clause (ii); and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).

“(C) in paragraph (3)(A), by striking clause (ii); and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).

“(C) in paragraph (3)(A), by striking clause (ii); and

“(B) in paragraph (3)(A), by striking clause (ii); and

“(ii) by redesigning clause (ii) as clause (iii).
“(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL,—

“(1) ANTI-BACKSLIDING ANALYSIS,—

“(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of reformulated gasoline and fuel additives resulting from implementation of the amendments made by the Federal Reformed Fuels Act of 2001.

“(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

“(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.

SEC. 897. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 21(h)(6) of the Clean Air Act (42 U.S.C. 7545(c)(6)) is amended—

(i) by striking “(6) OPT-IN AREAS.—(A) Upon” and inserting the following:

“(6) OPT-IN AREAS.—

“(A) CLASSIFIED AREAS.—

“(i) IN GENERAL.—Upon;

“(ii) in paragraph (B), by striking “(B) If” and inserting “(B) If”;

“(U) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—

“(3) in subparagraph (A)(ii) (as redesignated by paragraph (2)—

(A) in the first sentence, by striking “paragraph (B) and inserting “paragraph (B)”;

(B) in the second sentence, by striking “this paragraph” and inserting “this subparagraph”;

and

(C) by adding at the end the following:

“(B) OZONE TRANSPORT REGION.—

“(i) APPLICATION OF PROHIBITION.—

“(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fueling—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

“(2) REQUIRED ELEMENTS.—The study shall include—

(A) the effect of the requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel standards for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

“(B) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

“(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(4) by adding at the end the following:

“(C) OPT-IN AREAS.

Not later than 4 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States, (B) automobile manufacturers; (C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 898. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF REFORMULATED FUEL AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Orders Nos. 13149 (63 Fed. Reg. 24007; relating to Federal fleet and transportation efficiency).

TITLE IX—ENERGY EFFICIENCY AND ACCESS TO LOW INCOME CONSUMERS

Subtitle A—Low Income Assistance and State Energy Programs

SEC. 901. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION ASSISTANCE, AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8262(b)) is amended by striking the first sentence and inserting the following: “There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A) $3,400,000,000 for each of fiscal years 2003 through 2005.”.

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended by striking “$195,000,000” and inserting “$250,000,000”.

(3) Section 2609(a) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8629(a)) is amended by striking “not more than $520,000,000” and inserting “not more than $750,000”.

(b) WEATHERIZATION ASSISTANCE.—Section 42 of the Energy Conservation and Production Act (42 U.S.C. 6782) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary,” and inserting “$250,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.”.

SEC. 902. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6222) is amended by adding at the end the following:

“(g) Extension of commencement date based on insufficient capacity.—

“(1) in the section header, by striking “State” and inserting “State conservation plan of the State submitted under subsection (b) or (e), such reviews should consider the energy conservation plans of other States for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(f) the feasibility of offering incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refiners and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States, (B) automobile manufacturers; (C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 904. STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(b)) is amended by striking the first sentence and inserting the following: “There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A) $3,400,000,000 for each of fiscal years 2003 through 2005.”.

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended by striking “$195,000,000” and inserting “$250,000,000”.

(3) Section 2609(a) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8629(a)) is amended by striking “not more than $520,000,000” and inserting “not more than $750,000”.

(b) WEATHERIZATION ASSISTANCE.—Section 42 of the Energy Conservation and Production Act (42 U.S.C. 6782) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary,” and inserting “$250,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.”.
2010 as compared to calendar year 1990, and may contain interim goals」「.

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6225(f)) is amended by inserting "for fiscal years 1999 through 2002 such sums as may be necessary," and inserting "$300,000,000 for each of fiscal years 2003 and 2004; such sums as may be necessary for fiscal year 2005; and such sums as may be necessary for each fiscal year thereafter".

SECTION 903. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term "residential Energy Star product" means a product that is rated for energy efficiency under the Energy Star program.

(b) PURPOSE OF GRANTS.—The term "Energy Star program" means the State agency responsible for developing State energy conservation programs and State energy efficiency programs.

(c) AMOUNT OF ALLOCATIONS.—(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under this section for fiscal year 2003 through fiscal year 2012 by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in the most recent calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amount allocated under this section shall be adjusted proportionally so that no State is allocated an amount that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration:

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of an appliance that is not a residential Energy Star product, but is of the same type, as is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.
SEC. 911. ENERGY MANAGEMENT REQUIREMENTS.
(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended to read as follows:

“(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of all Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage and inserting specified in the following table:

- Fiscal Year 2002
- Percentage reduction 2

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is further amended by adding at the end the following:

“(2) by inserting ‘‘the Federal building or collection of Federal buildings to be excluded.”

SEC. 912. ENERGY USE MEASUREMENT AND AC- COUNTABILITY.
Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

“(e) METERING OF ENERGY USE.—

“(1) DEADLINE.—By October 1, 2004, all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or sub-metered in accordance with guidelines established by the Secretary under paragraph (2). Each agency, and understandably so, for each Federal building shall use metering devices that provide data at least daily and that measure at least hourly consumption of electricity used in such buildings, whichever requires the greater increase in energy efficiency; and

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) DEFINITIONS.—In this section:

“(1) ENERGY STAR PRODUCT.—The term ‘Energy Star product’ means a product that is rated

SEC. 913. FEDERAL BUILDING PERFORMANCE STANDARDS.
(a) REVISED STANDARDS.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—


(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall revised Federal building energy efficiency performance standards that require that, if cost-effective, (i) new commercial buildings and multifamily high rise residential buildings be constructed so as to achieve the applicable Energy Star building energy performance ratings or energy consumption levels at least 30 percent below the most recent ASHRAE Standard 90.1, whichever results in the greater increase in energy efficiency;

(ii) new residential buildings (other than those described in clause (i)) be constructed so as to achieve the applicable Energy Star building energy performance ratings or energy consumption levels at least 30 percent below the most recent version of the International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

(2) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

(1) take into consideration—

(A) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

(B) the extent to which metering and submetering are expected to result in increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

(3) the implementation and verification protocols of the Department of Energy;

(4) exclude or submetering, as appropriate, the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use; and

(5) establish one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

(6) establish exclusions from the requirements in paragraph (1) that are based on the de minimus quantity of energy use of a Federal building, industrial process, or structure.

(3) PLAN.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Congress a plan describing how the agency will implement the requirements of paragraph (1).

(4) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting ‘‘and both’’ before ‘‘Congress’’; and

(2) by inserting ‘‘and before’’ after ‘‘Congress’’.

SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation and Production Act (42 U.S.C. 6853) is further amended by adding at the end the following:

“SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation and Production Act (42 U.S.C. 6853) is amended—


(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation and Production Act (42 U.S.C. 6853) is amended—

(1) ENSURE ENERGY MANAGEMENT REQUIREMENTS.

(2) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended to read as follows:


(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation and Production Act (42 U.S.C. 6853) is amended—


(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
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(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
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(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”

SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.
(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation and Production Act (42 U.S.C. 6853) is amended—


(2) by adding at the end the following:

“(B) ADDITIONAL REVISED FEDERAL ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.”
for energy efficiency under an Energy Star program.


“(3) EXECUTIVE AGENCY.—The term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (42 U.S.C. 403).

“(4) FEMP DESIGNATED PRODUCT.—The term ‘FEMP designated product’ means a product that is covered by the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

“(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS—

“(1) REQUIREMENT.—To meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall, except as provided in paragraph (2), procure—

“(A) an Energy Star product; or

“(B) a FEMP designated product.

“(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency determines that such procurement is not cost-effective.

“(a) Energy Star product or FEMP designated product is not cost-effective over the life cycle of the product; or

“(b) the Energy Star product or FEMP designated product is reasonably available that meets the requirements of the executive agency.

“(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, and into the factors for the evaluation of offers received for such products, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

“(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency.

“(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to section 552 the following:

“Sec. 552. Federal Government procurement of energy efficient products.

“(c) REQUISITIONING.—Not later than 180 days after the effective date specified in subsection (f), the Secretary of Energy shall issue guidelines to carry out section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).

“(d) DESIGNATION OF ENERGY STAR PRODUCTS.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall expedite the process of designating products as Energy Star products (as defined in section 552 of the National Energy Conservation Policy Act (as added by subsection (a))).

“(e) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepowers, agencies shall select only premium efficient motors as are designated by the Secretary. The Secretary shall designate such a standard within 120 days of the enactment of this paragraph, after considering the recommendations of the appropriate electric motor manufacturers and energy efficiency groups.

“(f) EFFECTIVE DATE.—Subsection (a) and the amendment made by that subsection take effect on the date that is 90 days after the date of enactment of this Act.

SECTION 915. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 8 of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is repealed.

SECTION 916. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c) is amended to read as follows:

“(2) The term ‘energy savings’ means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, in the existing federally owned building or buildings or other federally owned facilities as a result of—

“(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

“(B) the increased efficient use of existing energy sources by heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

“(C) the increased efficient use of existing water sources.

“(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

“(3) The terms ‘energy savings’ contract and ‘energy savings performance contract’ mean a contract entered into by a covered entity and a contractor under which that entity agrees to pay the contractor a share of the energy savings under an energy savings contract or an energy savings performance contract.

“(c) ENERGY OR WATER CONSERVATION MEASURMENTS.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

“(4) FEMP DESIGNATED PRODUCT.

“(A) an Energy Star product or FEMP designated product.

“(B) a water conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

“(C) a water conservation measure that improves water efficiency, is life cycle cost effective, and includes an infrastructure, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.

SECTION 917. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, within a standard time period designated by the Secretary.

SECTION 918. FEDERAL ENERGY BANK.

Part 3 of title V of the National Energy Conservation Policy Act (as added by section 917) is amended to read as follows:

“(i) IN GENERAL.—There is established in the Federal Government an amount equal to $250,000,000 in fiscal year 2003 and in each fiscal year thereafter.

“(j) MANNING FUNDING.—Such amounts on loan from the Bank) become equal to the amounts on loan from the Bank.

“(k) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2003 and in each fiscal year thereafter.

“(l) LOANS FROM THE BANK.—(A) In general.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

“(m) AMOUNTS USED FOR PROGRAMS.—The Secretary may use the amounts in the Bank for the following:

“(ii) IN GENERAL.—A loan from the Bank may be used to pay—

“(I) the costs of an energy or water efficiency project; or

“(II) the costs of an energy or water efficiency project; or

“(m) AMOUNTS USED FOR PROGRAMS.—The Secretary may use the amounts in the Bank for the following:

“(ii) IN GENERAL.—A loan from the Bank may be used to pay—

“(I) the costs of an energy or water efficiency project; or

“(II) the costs of an energy or water efficiency project; or

“(i) Energy Savings Performance Contract Funding.—To the extent practicable, an agency shall not fund a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

“(j) PURPOSES OF LOAN.—In general.—(A) A Federal court and any other entity in the judicial branch.

“(B) A Federal court and any other entity in the judicial branch.

“(C) Congress and any other entity in the legislative branch.

“(D) The establishment of an Energy Savings Performance Contract act under title VIII; or

“(E) the energy savings under an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of the energy savings performance contract.
“(ii) LIMITATION.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

“(iii) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.—Not more than 25 percent of the amount of a loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Order 13123)).

“(IV) REPAYMENTS.—

“(I) IN GENERAL.—Subject to clauses (ii) through (iv), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Treasury.

“(II) WAIVER OR REDUCTION OF INTEREST.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

“(III) FUTURE DETERMINATION OF INTEREST RATE.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fund the operations of the Bank.

“(IV) INSUFFICIENCY OF APPROPRIATIONS.—

“(I) REQUEST FOR APPROPRIATIONS.—As part of the appropriation request to Congress for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

“(II) SUSPENSION OF REPAYMENT REQUIREMENT.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

“(E) FEDERAL AGENCY ENERGY BUDGETS.—

“Until a loan is repaid, a Federal agency budget submitted to the President for Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

“(F) NO RECESSON OR REPROGRAMMING.—A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as provided under guidelines issued under subparagraph (G).

“(G) GUIDELINES.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

“(d) SELECTION CRITERIA.—

“(I) IN GENERAL.—The Secretary shall establish guidelines for the selection of projects to be awarded loans in accordance with paragraph (2).

“(2) SELECTION CRITERIA.—

“(A) IN GENERAL.—The Secretary may make loans from the Bank only for a project that—

“(i) is technically feasible;

“(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

“(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

“(I) transmission energy savings for new and existing Federal facilities;

“(II) monitor and improve energy efficiency management at existing Federal facilities; and

“(III) optimize the energy savings under an energy savings performance contract under title VIII; and

“(iv) in the case of a renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

“(v) in the case of any other project, has a simple payback period of not more than 10 years.

“(B) PRIORITIZATION.—In selecting projects, the Secretary shall give priority to projects that—

“(I) are a component of a comprehensive energy management project for a Federal facility; and

“(ii) are designed to significantly reduce the energy use of the Federal facility.

“(c) REPORTS AND AUDITS.—

“(I) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

“(A) states whether the project meets or fails to meet the energy savings projections for the project; and

“(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

“(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) AGENCY HEAD.—The term ‘agency head’ means—

“(A) the Secretary of Transportation; and

“(B) the head of each other Federal agency that on a regular basis, procures Federal funds to pay to or assist in paying the cost of energy management and conservation programs required under this section that describes in detail—

“(I) energy expenditures and savings estimates for each facility;

“(II) energy management and conservation projects; and

“(III) future priorities to ensure compliance with this section.

“(b) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 276e).
(1) In general.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement policies, when followed, may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) Matters to be addressed.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement policies and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to full substitution of recovered material in types of cement or concrete projects, so as to realize energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects.

(3) Report.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) Additional procurement requirements.—Within 1 year of the release of the report in accordance with subsection (c)(2), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement and concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with that substitution; and

(2) eliminate barriers identified under subsection (c).

(e) Effect of section.—Nothing in this section affects the requirements of section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

Subtitle B—Industrial Efficiency and Consumer Products

SEC. 921. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) Voluntary agreements.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of production activities.

(b) Goal.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 2.5 percent each year from 2002 through 2012.

(c) Recognition.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(d) Definition.—In this section, the term ‘‘energy intensity’’ means the primary energy consumed per unit of physical output in an industrial process.

(e) Technical assistance.—An entity that enters into an agreement under this section and makes good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance as appropriate to assist in the achievement of those goals.

(f) Report.—Not later than 30 months after June 30, 2008 and June 30, 2012, the Secretary shall submit to Congress a report that evaluates the success of the voluntary agreements with independent verification of a sample of the energy savings estimated by participating firms.

SEC. 922. AUTHORITY TO SET STANDARDS FOR COMMERCIAL PRODUCTS.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended as follows:

(1) In the heading for such part, by inserting ‘‘AND COMMERCIAL’’ after ‘‘CONSUMER’’.

(2) In section 321(2), by inserting ‘‘or commercial’’ after ‘‘consumer’’.

(3) In paragraphs (4), (5), and (15) of section 321, by striking ‘‘consumer’’ each place it appears and inserting ‘‘covered’’.

(4) In section 322(b)(4), by inserting ‘‘or commercial’’ after ‘‘consumer’’ the first place it appears in the material preceding paragraph (1).

(5) In section 322(b), by inserting ‘‘or commercial’’ after ‘‘consumer’’ the first place it appears.

(6) In section 322 (b)(2)(A), by inserting ‘‘or per-business in the case of a commercial product’’ after ‘‘per-household’’ each place it appears.

(7) In section 322 (b)(2)(A), by inserting ‘‘or businesses in the case of commercial products’’ after ‘‘households’’ each place it appears.

(8) In section 322(b)(1)(A)—

(A) by striking ‘‘term’’ and inserting ‘‘terms’’; and

(B) by inserting ‘‘and ‘business’’ after ‘‘household’’.

(9) In section 323 (b)(1) (B) by inserting ‘‘or commercial’’ after ‘‘consumer’’.

SEC. 923. ADDITIONAL DEFINITIONS.

Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:

(32) The term ‘‘fan–type heater’’ means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

(33) The term ‘‘traffic signal module’’ means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.

SEC. 924. ADDITIONAL TEST PROCEDURES.

(a) Exit signs.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding at the end the following:

(9) Test procedures for illuminated exit signs shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for illuminated exit signs, as in effect on the date of enactment of this paragraph.

(b) Test procedures for low voltage distribution transformers shall be based on the Standard Test Method for Measuring the Energy Consumption of Distribution Transformers prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure in future revisions to such standard test method.

(c) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

(d) Additional consumer and commercial products.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is further amended by adding at the end the following:

(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

(Signed)
SEC. 925. ENERGY LABELING. 
(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—(Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is further amended by adding at the end the following: 
"(F) Not later than 3 months after the date of enactment of this paragraph, the Secretary shall issue a rule making to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and consider changes to the labeling requirements that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed, in whole or in part, before the date of enactment of this subparagraph."

(b) RULEMAKING ON ADDITION TO ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is further amended by adding at the end the following:

"(5) SEC. 926. ENERGY STAR PROGRAM.

"The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting after section 324 the following:

"(ENERGY STAR PROGRAM)"

"SEC. 324A. There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy efficiency, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies.

"(1) The Secretary and the Administrator shall—

"(A) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and reduce pollution;

"(B) work to enhance public awareness of the Energy Star label, including special outreach to small businesses and to consumers;

"(C) work to establish a third-party verification program for the Energy Star label; and

"(D) solicit the comments of interested parties in establishing a new Energy Star product category or in revising a product category, and upon adoption of a new or revised product category provide an explanation of the decision that responds to significant public comments.""

SEC. 927. ENERGY CONSERVATION STANDARDS FOR CENTRAL AIR CONDITIONING SYSTEMS AND FAN COIL UNITS. 
Section 323(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6294(d)) is amended by adding at the end the following:

"SEC. 328. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.

"The Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is further amended by adding at the end the following:

"(1) STANDBY MODE ELECTRIC CONSUMPTION.—(A) The Secretary shall, within 18 months after the date of enactment of this section, prescribe by notice and comment, definitions of standby mode and test procedures for standby mode power use of battery chargers and external power supplies. In establishing such definitions and procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future energy savings and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to the energy efficiency of battery chargers and external power supplies.

"(B) The Secretary shall, within 3 years after the date of enactment of this subsection, prescribe by notice and comment, requirements for developing energy conservation standards for standby mode energy use for products.

"(C) Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate energy conservation standards for standby mode energy use for products that meet the performance requirements for standby mode set forth in subsections (l) and (m).

"(D) NO STANDBY DEVIATIONS.—The Secretary shall not promulgate any energy conservation standards for standby mode energy use for products that meet the performance requirements for standby mode set forth in subsections (l) and (m) unless the Secretary determines that energy savings from standby mode energy use are significantly lower than energy savings from test procedures that comply with the technical requirements of this subsection.

"(E) NOTICE.—Any energy conservation standards promulgated under this subsection shall be promulgated after notice for public comment and public hearing a notice to determine whether any noncovered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether any energy conservation standard stipulating standby mode energy consumption shall be promulgated for any noncovered products.

"(F) PUBLIC COMMENT.—In promulgating energy conservation standards for standby mode energy use for products, the Secretary shall consider the comments of interested parties, including the comments of interested parties on the rulemaking for standby mode energy use for products that were published under section 325(d)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6294(d)).

"(G) ENERGY CONSERVATION STANDARDS.—(A) The Secretary shall prescribe, by rule, energy conservation standards for covered products and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(B) The Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is amended by adding at the end the following:

"(6) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 323 whether test procedures and energy conservation standards are prescribed by the Secretary pursuant to section 324(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"SEC. 929. CONSUMER EDUCATION ON ENERGY EFFICIENCY. 
SEC. 929. CONSUMER EDUCATION ON ENERGY CONSERVATION, HEATING, AND VENTILATION SYSTEMS. 
Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

"(1) STANDBY MODE ELECTRIC CONSUMPTION.—(A) Any rulemaking under this subsection or for covered products under this section which incorporates energy consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in section 325 and the criteria set forth in paragraph (B) of subsection (a).

"(B) No standard can be proposed for new covered products or covered products in a stand-by mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

"(C) The provisions of section 327 shall apply to products which are subject to the rulemakings for standby mode after a final rule has been issued.

"(2) CONSUMER DECISION DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

"(3) VOLUNTARY PROGRAM TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 323 whether test procedures and energy conservation standards are prescribed by the Secretary pursuant to section 324(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(4) EDUCATION FOR DISTRIBUTION TRANSFORMERS.—The Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is amended by adding at the end the following:

"(D) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 323 whether test procedures and energy conservation standards are prescribed by the Secretary pursuant to section 324(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(E) EDUCATION FOR DISTRIBUTION TRANSFORMERS.—The Energy Policy and Conservation Act (42 U.S.C. 6294(a)(1)) is amended by adding at the end the following:

"(E) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 323 whether test procedures and energy conservation standards are prescribed by the Secretary pursuant to section 324(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

"(F) CONSUMER EDUCATION ON ENERGY EFFICIENCY. 
SEC. 929. CONSUMER EDUCATION ON ENERGY EFFICIENCY. 
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SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measure-ments of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress.

Subtitle D—Housing Efficiency

SEC. 931. CAPACITY BUILDING FOR ENERGY EFFICIENT, AFFORDABLE HOUSING.


(A) by inserting before the semicolon at the end of the following: “; or”;

(B) by striking “Buildings” and inserting “energy conservation measures”;

(C) by striking “and”; and

(D) by striking “and” and inserting “;”.

SEC. 932. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 101(a)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(2)) is amended—

(A) by striking “or efficiency” after “energy conservation”;

(B) by striking “, and except that”; and inserting “;”;

(C) by striking “; and” and inserting “;”;

(D) by inserting at the end the period the following: “.”; and

(E) by striking “; and” and inserting “;”.

SEC. 933. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(A) by inserting “or paragraph (10)” after “paragraph”;

(B) by striking “20 percent” and inserting “30 percent”;

(C) by striking “at the end” and inserting “at the end”;

(D) by inserting “as follows:” after “the end”;

(E) by striking “paragraph (10)” and inserting “paragraph (10)”;

(F) by striking “at the end” and inserting “at the end”;

(G) by striking “at the end” and inserting “at the end”;

(H) by striking “20 percent” and inserting “30 percent”.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1715f(c)) is amended—

(A) by inserting “or paragraph (10)” after “paragraph”;

(B) by striking “20 percent” and inserting “30 percent”;

(C) by striking “at the end” and inserting “at the end”;

(D) by inserting “as follows:” after “the end”;

(E) by striking “paragraph (10)” and inserting “paragraph (10)”;

(F) by striking “at the end” and inserting “at the end”;

(G) by striking “20 percent” and inserting “30 percent”.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715q) is amended—

(A) in paragraph (2), by striking the period at the end and inserting “;”;

(B) by redesignating paragraph (3) as paragraph (2); and

(C) by adding at the end the following:

“(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.”;

and

(2) by striking “The” and inserting the following:

“(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.”.

SEC. 934. PUBLIC HOUSING CAPITAL FUND.

Section 901(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) by inserting “financed with loans” after “financed”; and

(B) by inserting “assisted” after “financed”;

(C) by inserting after “in” the following: “subject to mortgage restructuring and rental assistance sufficiency plans under such Act,”; and

(D) by inserting at the end the period the following: “.”.

SEC. 935. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(a)(1)) is amended—

(A) by striking “of the National” and inserting “of the National”;

(B) by inserting “assisted” after “financed with loans”;

(C) by striking “; and” after “return therefor” and inserting “.”;

and

(D) by inserting after “assisted” the following:

“(L) improvement of energy and water-use efficiency in installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19-2 and A112.18-1989, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appro-priate.”.

SEC. 936. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of title D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 2509m–2509m–3) is amended by adding at the end the following: “NORTH AMERICAN DEVELOPMENT BANK.

SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

“Consistent with the focus of the Bank’s Charter on clean and efficient infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy generation, energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.”.

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1709) is amended, as amended by section 934, is amended—

(A) in subsection (d)—

and

(B) by adding at the end the following:

“(iii) TERMINAL CONTRACT.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payment periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renew-able energy generation.”.

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star compliant, as defined in section 213(c)(2) of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—


(B) by striking “and” at the end; and

(C) by striking “and” at the end and inserting “;”.

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) In General.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) Energy Management Office.—The Secretary shall establish an office at the Department of Housing and Urban Development for utility management,
energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing construction and development-related energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

Subtitle E—Rural and Remote Communities

SEC. 941. SHORT TITLE.

(1) The term ‘‘rural and remote community’’ means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(2) The term ‘‘rural and remote community’’ means a unit of general local government under section 947 if—

(A) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and

(B) such unit of general local government has agreed that it will utilize the program income for eligible rural and remote community development activities in accordance with the provisions of this title.

(2) EXCEPTION.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable administrative burden on the rural and remote community.

SEC. 942. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a substantial number of citizens of rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;

(2) the Nation’s rural and remote communities face critical social, economic and environmental problems, and that Federal assistance continues to appropriate $100,000,000 for each of fiscal years 2003 through 2009;

(b) PURPOSE.—The purpose of this subtitle is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, wastewater, and bulk fuel, telecommunications, and utilities services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.

SEC. 943. DEFINITIONS.

As used in this subtitle:

(1) The term ‘‘unit of general local government’’—

(A) means a city, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions which is recognized by the Secretary; and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify;

(B) means a unit of general local government that is not a political subdivision, that is not a contiguous, consolidated or amalgamated unit of general local government, and that is not a political subdivision that is completely contained within the boundaries of another political subdivision;

(2) The term ‘‘Native American group’’ means any Indian tribe, band, group, and nation, including Aleuts, Eskimos, and any Alaskan Native village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter;

(3) the term ‘‘Secretary’’ means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

SEC. 944. AUTHORIZATION OF APPROPRIATIONS.

(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the Secretary of Energy information that describes the objectives and projected use of funds.

(b) PUBLIC NOTICE.—In order to permit public examination and approval of such statements, the Secretary shall provide the Secretary with the following information:

(1) information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

(2) a schedule of the proposed statement and on the community development performance of the grantee;

(3) provide citizens with reasonable access to records regarding activities necessary for funds received under section 947 by the grantee; and

(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed in the use of funds received under section 947 from one eligible activity to another.

The final statement shall be made available to the public and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the provisions of this title.

SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.

(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the Secretary of Energy information that describes the objectives and projected use of funds.

(b) PUBLIC NOTICE.—In order to permit public examination and approval of such statements, the Secretary shall provide the Secretary with the following information:

(1) information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

(2) a schedule of the proposed statement and on the community development performance of the grantee;

(3) provide citizens with reasonable access to records regarding activities necessary for funds received under section 947 by the grantee; and

(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed in the use of funds received under section 947 from one eligible activity to another.

The final statement shall be made available to the public and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the provisions of this title.

(c) PERFORMANCE AND EVALUATION REPORT.—Each year, the Secretary shall submit to the Congress a performance and evaluation report, containing a description of each project for which grants have been approved under section 947, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee’s statement of objectives and requirements of subsection (b), to the requirements of section 945, and to the requirements of section 946. The Secretary shall provide such report to the extent practicable within one hundred eighty days after the end of each fiscal year.

(d) RETENTION OF INCOME.—The Secretary shall give special consideration to those rural and remote communities
that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.

SEC. 948. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

“(c) RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to:

“(1) an eligible unit of local government of a State or territory; or

“(2) an Indian tribe or Tribal College or University as described in section 318(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

“(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

“(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to certain facilities.

“(f) DEFINITION.—For purposes of this section, the term “Indian tribe” means any Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(g) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2007 to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 2009 to 2011) to carry out the provisions of this section during the period, as determined by the Secretary of Housing and Urban Development; and

“(h) TRANSMIT TO RURAL AREAS.—The term “rural area” means a unit of general local government or eligible Indian tribe that meets the requirements of subsection (d) to carry out eligible activities described in subsection (f).

“SEC. 949. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2007 to the Secretary to carry out the purposes of funding the power cost equalization program.

SEC. 950. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

(a) FINDING.—The Secretary finds that—

(1) FINDINGS.—Congress finds that—

“(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced telecommunications, and the ability to provide those services, are a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

“(B) the Nation’s rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that have generally lower per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs;

“(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

“(D) purpose.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low income levels.

“(E) definitions.—In this section:

“(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term “eligible unit of general local government” means a unit of government that is the governing body of a rural recovery area.

“(2) ELIGIBLE INDIAN TRIBE.—The term “eligible Indian tribe” means the governing body of an Indian tribe that is located in a rural recovery area.

“(3) GRANTEE.—The term “grantee” means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

“(4) NATIONAL AMERICAN GROUP.—The term “National American group” means any Indian tribe, band, group, or nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under section 7 of title 31, United States Code, prior to the repeal of such chapter.

“(5) NATURAL RECOVERY AREA.—The term “natural recovery area” means an area that has been considered an eligible recovery area by the Secretary of Housing and Urban Development in rural areas with excessively high rates of outmigration and are not adequately serviced by public facilities or services.

“(6) ELIGIBLE ACTIVITIES.—The term “eligible activities” means activities that meet the requirements of subsection (d) to carry out activities described in subsection (f).

“(7) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development, the Secretary of the Interior or the Secretary of Energy, as appropriate.

“(8) GRANT AUTHORITY.—The Secretary may make grants to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

“(9) ELIGIBILITY REQUIREMENTS.—

“(d) AMOUNT.—The term “amount equal to the greater of” means an amount equal to the greater of—

“(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and sewer service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;

“(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

“(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

“(4) the acquisition necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; and

“(5) affordable housing initiatives.

“(g) PERFORMANCE AND EVALUATION REPORT.—
tional Academy of Sciences also noted that the observed warming is real and particularly
important report found that global climate change threatens to inundate low-lying island nations
cover and ice extent have decreased, which greenhouse gases and aerosols, current estimates of the
rent understanding of how the climate system cause there is considerable uncertainty in cur-
have been due to the increase of greenhouse gas
Earth
in atmospheric concentrations of man-made
following findings:
(4) The IPCC has stated that in the last 40
(3) The National Academy of Sciences con-
(""");
""")
(11) It is the position of the United States that
(10) Senate Resolution 98 of the One Hundred
(9) The UNFCCC further stated that
(8) LONG-TERM GOAL OF THE STRATEGY.
(7) The term "climate-friendly technology" means any
(6) In 1992, the United States ratified the
(5) GREENHOUSE GAS.
(4) American businesses need to know how
governments worldwide will address the risks of climate change.
(3) The National Academy of Sciences con-
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(9) MITIGATION.—The term “mitigation” means actions that reduce, avoid, or sequester greenhouse gases.

(10) NATIONAL ACADEMY OF SCIENCES.—The term “National Academy of Sciences” means the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council.

(11) NEGOTIABLE PROFESSIONAL.—(A) IN GENERAL.—The term “negotiable profession” means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change challenge.

(12) NATIONAL KNOWLEDGE.—The fields of knowledge referred to in subparagraph (A) are—

(i) the science of climate change and its impacts;

(ii) energy and environmental economics;

(iii) technology transfer and diffusion;

(iv) the social dimensions of climate change;

(v) climate change adaptation strategies;

(vi) fossil, nuclear, and renewable energy technologies;

(vii) energy efficiency and energy conservation;

(viii) energy systems integration;

(ix) engineered and terrestrial carbon sequestration;

(x) transportation, industrial, and building sector concerns;

(xi) regulatory and market-based mechanisms for addressing climate change;

(xii) risk and decision analysis;

(xiii) strategic planning; and

(xiv) the international implications of climate change strategies.

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

(13) STABILIZATION OF GREENHOUSE GAS CONCENTRATIONS.—The term “stabilization of greenhouse gas concentrations” means the stabilization of greenhouse gas concentrations in the atmosphere at a level that prevents dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(14) STRATEGY.—The term “Strategy” means the National Climate Change Strategy developed under section 1013.

(15) WHITE HOUSE OFFICE.—The term “White House Office” means the Office of National Climate Change Policy established by section 1014(a).

SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY

(a) IN GENERAL.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—

(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken in the United States and other nations;

(2) recognize that accomplishing the long-term goal of the Strategy will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) incorporate the four key elements;

(4) incorporate the four key elements, including the results of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with United States treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, a market-based Sectoral Strategy, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the purchase of emissions credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner;

(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) be consistent with the goals of energy, transportation, industrial, and building sector concerns;

(9) take into account—

(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(10) be based on an evaluation of a wide range of approaches, including the long-term goal of the Strategy, including evaluation of—

(I) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(II) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(III) participation in international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy;

(11) in the final recommendations of the Strategy—

(A) emphasize policies and actions that achieve the long-term goal of the Strategy; and

(B) provide specific recommendations concerning—

(i) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—

(I) produce measurable net reductions in United States greenhouse gas emissions consistent with expected trends, that lead toward achievement of the long-term goal of the Strategy; and

(II) minimize any adverse short-term and long-term social, economic, national security, and social impacts on the United States;

(ii) the development of technologies that have the potential for long-term implementation—

(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(iii) such changes in institutional and technological systems are necessary to adapt to climate change in the short-term and the long-term;

(iv) such reuse, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and

(2) develop a strategy that should be made to project and guide the application criteria under the Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;

(12) report on the Strategy is intended to guide the Nation’s effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the Strategy; and

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the President, through the Interagency Task Force and the Director, shall transmit to Congress the Strategy, in the form of a report that includes—

(1) a description of the Strategy and its goals, including how the Strategy addresses each of the four key elements;

(2) an inventory and evaluation of Federal programs and activities intended to carry out the Strategy;

(3) a description of how the Strategy will serve as a framework for climate change response actions by all Federal agencies, including a description of coordination mechanisms and interagency activities;

(4) evidence that the Strategy is consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(5) a description of provisions in the Strategy that ensure that it minimizes any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the Strategy is developed in an economically and environmentally sound manner;

(6) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties;

(7) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related impacts; and

(8) recommendations for legislative or administrative changes to Federal programs or activities.
implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities.

(c) Updates.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 4-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) Progress Reports.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government for the Fiscal Year following Fiscal Year 1998, the President shall submit to Congress a report that:

(1) describes the Strategy, its goals, and the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaptation activities;

(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;

(3) assesses the progress in implementation of the Strategy;

(4) incorporates the technology program reports required pursuant to section 1013(a)(3) and subsection (b) of section 1221.

(5) describes any changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;

(6) describes all Federal spending on climate change for the current fiscal year and each of the 5 years previous; categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education, and other activities);

(7) estimates the budgetary impact for the current fiscal year and each of the 5 years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities;

(8) estimates the amount, in metric tons, of net greenhouse gas emissions reduced, avoided, or sequestered directly or indirectly as a result of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are authorized to be appropriated to the National Science Foundation such sums as may be necessary.

SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.

(a) Establishment.—

(1) In general.—There is established, within the Executive Office of the President, the Office of National Climate Change Policy.

(2) Focus.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.

(b) Duties.—Consistent with paragraph (2), the White House Office shall—

(1) establish policies, objectives, and priorities for the Strategy;

(2) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(3) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, taking into consideration any uncertainties associated with the results of its review, along with any recommendations as appropriate. Such report shall also be made available to the public.

(c) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the National Science Foundation such sums as may be necessary.

SEC. 1014B. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.

1013(d).
(c) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may enter into an arrangement under the Interagency Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.

(3) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to the Executive Office of the President to carry out the duties of the White House Office under this subtitle, $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(e) INTERAGENCY TASK FORCE.—

(1) IN GENERAL.—The Director of the White House Office shall establish the Interagency Task Force.

(2) COMPOSITION.—The Interagency Task Force shall be composed of—

(A) the Director of the White House Office, who shall serve as Chair;

(B) the Secretary of State;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Secretary of Transportation;

(F) the Secretary of Agriculture;

(G) the Administrator of the Environmental Protection Agency;

(H) the Chairman of the Council of Economic Advisers;

(I) the Chairman of the Council on Environmental Quality;

(J) the Director of the Office of Science and Technology Policy;

(K) the Director of the Office of Management and Budget;

(L) the heads of such other Federal agencies as the President considers appropriate.

(3) STRATEGY.

(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly assist the Director of the White House Office in—

(i) developing and updating the Strategy; and

(ii) preparing annual reports under section 1013(b).

(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—

(i) take into account the long-term goal and other requirements of the Strategy specified in section 1013(a);

(ii) consult with State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and

(iii) build consensus around a Strategy that is based on strong scientific, technical, and economic analyses.

(4) WORKING GROUPS.—The Chair, in consultation with the members of the Interagency Task Force, shall establish such topical working groups as are necessary to carry out the duties of the Interagency Task Force and implement the Strategy, taking into consideration the key elements of the Strategy. Such working groups may be comprised of members of the Interagency Task Force or their designees.

(f) STAFF.—In accordance with procedures established by the Chair of the Interagency Task Force, the Federal agencies represented on the Interagency Task Force shall provide staff to support information, data collection, and analyses required by the Interagency Task Force.

(g) HEARINGS.—Upon request of the Chair, the Interagency Task Force may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Interagency Task Force considers to be appropriate.

SEC. 1015. OFFICE OF CLIMATE CHANGE TECHNOLOGY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Department, the Office of Climate Change Technology.

(2) DUTIES.—The Department Office shall—

(A) manage an energy technology research and development program that directly supports the Strategy by—

(i) focusing on high-risk, bold, breakthrough technologies that—

(I) have significant promise of contributing to the long-term goal of the Strategy by (aa) investigating the emissions of greenhouse gases; (bb) removing and sequestering greenhouse gases from emission streams; or (cc) reducing or sequestering greenhouse gases from the atmosphere; (II) are not being addressed significantly by other Federal programs; and (III) toward a substantial advance beyond technology available on the date of enactment of this subtitle; (ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve the long-term goal of the Strategy at the lowest possible cost; (iii) forging international research and development partnerships that are in the interests of the United States and make progress on achieving the long-term goal of the Strategy; (iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and (v) transferring research and development programs to other program offices of the Department; and (B) through active participation in the Interagency Task Force and utilization of the analytical capabilities of the Department Office, share analyses of alternative climate change strategies, including the cost and emission characteristics of energy, transportation, industrial, agricultural, forestry, or other climate change-related technologies.

(2) WITH THE PRIVATE SECTOR.—

(A) IN GENERAL.—Notwithstanding section 1403, the Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.

(B) REQUIREMENTS.—Although cost sharing in such cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement to ensure compatibility with the activities of the Department Office toward incremental innovations.

(C) REEXAMINATION.—At such time as the Department Office is appropriately bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is...
transferred to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program shall be reevaluated.

(2) DIRECT EMISIONS.—Each cost-sharing agreement entered into under this paragraph shall be published in the Federal Register.

(d) ANALYSIS OF CLIMATE CHANGE STRATEGY.—(1) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other Federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(2) PROGRAM.—(A) IN GENERAL.—The Department Office shall—

(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other Federal agencies, are necessary to support the design and implementation of the Strategy; and

(ii) track United States and international progress toward the long-term goal of the Strategy.

(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, governmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon capture, sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to assess—

(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies for regulatory, economic, and international perspectives;

(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has consequential leakage rates on a geologic time-scale; and

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.

(2) AREAS OF EXPERTISE.—(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary from—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;

(ii) to conduct effective research and development programs; and

(iii) to assist with the development and implementation of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States and foreign markets.

(3) DISSEMINATION OF INFORMATION.—The Department Office shall, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.

(4) ASSESSMENTS.—In a manner consistent with the Strategy, the Department Office shall conduct assessments of deployment of climate-friendly technologies.

(5) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(6) AUTHORIZATION OF APPROPRIATIONS.—(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this subtitle is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this subtitle until the date on which the funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department Office under this subtitle, $4,750,000,000 for the period of fiscal years 2003 through 2011, to remain available until September 30, 2011.

(a) ADDITIONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—

(A) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and

(B) amounts made available under other provisions of law for energy research and development.

TILE XI—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, regulations, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term “baseline” means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term “database” means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term “designated agency” means a department or agency to which responsibility for a function or program assigned under the memorandum of agreement entered into under section 1103.

(5) DIRECT EMISSIONS.—The term “direct emissions” means greenhouse gas emissions by an activity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term “entity” means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term “facility” means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term “greenhouse gas” means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) determined by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) or (2) or under the regulations in effect at the time of promulgation for coverage under this title.

(9) INDIRECT EMISSIONS.—The term “indirect emissions” means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

—-

—-
(B)(i) are emitted from a facility owned or controlled by another entity; and
(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions that the reductions are attributable to.
(10) REGISTRY.—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).
(11) SEQUESTRATION.—(A) IN GENERAL.—The term "sequestration" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.
(B) INCLUSIONS.—The term "sequestration" includes—
(i) soil carbon sequestration;
(ii) agricultural and conservation practices;
(iii) forest sequestration;
(iv) maintenance of an underground reservoir; and
(v) any other appropriate biological or geologic method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.
(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall establish the National Greenhouse Gas Database.
(b) REQUIREMENTS.—The memorandum of agreement shall describe the following:
(A) the comprehensive system described in subsection (a) shall, at a minimum, retain the following functions for the designated agencies:
(i) maintain and update the national greenhouse gas emissions inventory,
(ii) analyze information on greenhouse gas emissions by entities,
(B) the comprehensive system described in subsection (a) shall be designed to enable entities to—
(i) calculate greenhouse gas emissions in a uniform and comparable manner,
(ii) communicate greenhouse gas emissions information to the public,
(iii) analyze greenhouse gas emissions information,
(iv) maintain an accurate database of greenhouse gas emissions,
(v) communicate greenhouse gas emissions information to the public,
(vi) perform analyses of greenhouse gas emissions data,
(vii) calculate and communicate greenhouse gas emissions data,
(viii) communicate greenhouse gas emissions information to the public,
(ix) maintain an accurate database of greenhouse gas emissions,
(x) communicate greenhouse gas emissions information to the public,
(xi) perform analyses of greenhouse gas emissions data,
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(xxv) communicate greenhouse gas emissions information to the public,
(IV) other indirect emissions that are not required to be reported under paragraph (1); and
(V) product use phase emissions;
(ii) with respect to greenhouse gas emissions reduction activities carried out by an entity that may have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under section 1105(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or
(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, or any component or activity related to the entity to the registry.

clause (i) shall be considered to be reported by the agency shall not be required to re-report that greenhouse gas data collection and reporting system.

methods and standards developed under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, is required to report greenhouse gas reductions as recognized by 1 or more designated agencies.

house gas data collection and reporting systems applicable to the designated agencies developed under paragraph (1); and

any greenhouse gas emissions and emission reductions reported to the designated agencies during or after 1990, verified in accordance with regulations promulgated under subsection (a).

innovation reductions, and atmospheric concentrations for use in the registry.

annual measurement and verification methods and verification practices for reports made by all entities participating in the registry, taking into account:

provides a comparison of current and past greenhouse gas emission reductions and atmospheric concentrations for use in the registry, including:

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(ix) indoor solid carbon sequestration practices and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

is in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

the need of the registry to maintain valid and reliable measurement and reporting system.

in the areas of greenhouse gas measurement, certification, and emission trading.

The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

The designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

The designated agencies shall jointly develop comprehensive measurement and verification methods and verification practices for use in the registry.

the need for any additional issues to be considered.

The need of the registry to maintain valid and reliable measurement and reporting system.

in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

the need of the registry to maintain valid and reliable measurement and reporting system.

in the areas of greenhouse gas measurement, certification, and emission trading.

The Secretary of Commerce shall make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a) for use in implementing the database.

The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code.

CONGRESSIONAL RECORD—SENATE
May 1, 2002
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(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(b)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall complete reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPlicABILITY OF REQUIREMENTS.—The Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions represented to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(2)), regardless of real participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each violation of which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall transmit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.
and fluorescent lighting technologies, are emitting diodes that, compared to incandescent that has an efficiency of 160 lumens per watt
develop an inorganic white light emitting diode
The objective of the initiative with respect to in-
itiative to research, develop, and conduct dem-
stration activities on advanced solid-state
The objectives of the initia-
tivity, in cooperation with the Next Gen-
eration Lighting Initiative Consortium.
(2) COMPOSITION.—The consortium shall be composed of the
states so that the consortium is re-
representative of the United States solid-state light-
light research, development, and manufacturing
expanding a whole.
(3) FUNDING.—The consortium shall be funded by
(a) participation fees; and
(b) grants provided under subsection (e)(1).
(4) ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—
(i) enter into a consortium participation agreement that
(ii) is agreed to by all participants; and
(iii) describes the responsibilities of partici-
pants, participation fees, and the scope of re-
sources.
(a) ESTABLISHMENT AND AUTHORIZATION OF
APPROPRIATIONS.—From amounts authorized under section 1211(c), there are authorized to be appropriated not more than $50,000,000 in any fiscal year, for an Energy Efficiency Science Initiative to be managed by the Assistant
Secretary in the Department with responsibility for energy
conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitive, awarded and subject to peer review for research relating to energy efficiency.
(b) REPORT.—The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations of the United States House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, an annual report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the award relates to energy efficiency.
SEC. 1213. NEXT GENERATION LIGHTING INITI-
(A) IN GENERAL.—Not later than 90 days after the establishment, the Sec-
retary shall establish and appoint the members of a planning board, to be known as the ‘‘Next Generation Lighting Initiative Planning Board’’, to assist the Secretary in carrying out this section.
(2) COMPOSITION.—The planning board shall be composed of—
(A) four members from universities, national laboratories, and other individuals with expertise in advanced solid-state lighting and technologies on white light emitting diodes; and
(B) three members from a list of not less than six nominees from industry submitted by the consortium.
(3) STUDY.—
(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary appoints mem-
bers to the planning board, the planning board shall complete a study on strategies for the
development and implementation of advanced solid-state lighting technologies based on white light emitting diodes.
(B) REQUIREMENTS.—The study shall develop a comprehensive strategy to implement, through the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.
(C) IMPLEMENTATION.—As soon as practicable after the study is submitted to the Secretary, the Secretary shall implement the initiative in ac-
cordance with the recommendations of the planning board.
(4) TERMINATION.—The planning board shall terminate upon completion of the study under paragraph (3).
(5) AUDITS.—Grants, contracts, and other agreements under this section shall be audited by a comptroller or a representative designated by the National Academy of Sciences. The auditor shall submit to the Committee on Science, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, a report on the audited grants, contracts, and agreements. The report shall describe the expenditures of funds under this section, and shall contain recommendations as to the future use of funds under this section.
SEC. 1214. RAILROAD EFFICIENCY.
(a) ESTABLISHMENT.
(1) IN GENERAL.—The Secretary shall, in cooperation with the Secretaries of Transportation and Defense, and the Administrator of the Environmental Protection Agency, establish a publicprivate research partnership involving the Federal Government, railroad carriers, locomotive manufacturers, and the Association of American Railroads. The goal of the initiative shall be to conduct research relating to advanced locomotive technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.
(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not more than $60,000,000 in any fiscal year for purposes of this section.
(c) CONSORTIUM.—
(1) IN GENERAL.—The Secretary shall initiate and manage basic and manufacturing-related research on advanced solid-state lighting technol-
ologies based on white light emitting diodes and other lighting technologies, in cooperation with the Next Generation Lighting Initiative Consortium.
(2) TECHNOLOGY DEVELOPMENT AND DEMON-
stration.—The Secretary shall enter into grants, contracts, and cooperative agreements to support scientific research, develop-
ment, or demonstration activities. In providing funding under this paragraph, the Secretary shall give priority to recipients that—
(i) produce results that are—
(A) applicable to the public transportation sector; and
(B) suitable for use in multiple transportation sectors;
(ii) include development of new light emitting diodes or related technologies that increase fuel economy, reduce emissions, improve safety, and lower costs; and
(iii) include development of new light emitting diodes or related technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.
SEC. 1215. MANUFACTURING.
(a) ESTABLISHMENT.
(1) IN GENERAL.—The Secretary shall establish the Consortium under subsection (c).
(2) COMPOSITION.
(A) IN GENERAL.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(B) REQUIREMENTS.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(C) ROLES AND RESPONSIBILITIES.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(D) FUNDING.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(E) INTELLECTUAL PROPERTY.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(F) STUDY.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(G) TERMINATION.—The consortium shall be composed of—
(i) a representative from each of the parties to the agreement that
produces white light using externally applied voltage.
(b) REPORTS.—The Secretary shall submit to the Committee on Science, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives, a report on the activities of the consortium.
(c) PROTECTION OF INFORMATION.—Information obtained by the Federal Government on a confidential basis under this section shall be considered to constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.
(d) AUTHORIZATION OF APPROPRIATIONS.—The term ‘‘inorganic white light emitting diode’’ means a semiconductor diode that produces white light using commercially available technology.
(f) DEFINITIONS.—In this section—
(1) ADVANCED SOLID-STATE LIGHTING.—The term ‘‘advanced solid-state lighting’’ means a semiconductor diode that produces white light using commercially available technology.
(2) ORGANIC WHITE LIGHT EMITTING DIODE.—The term ‘‘organic white light emitting diode’’ means a semiconductor diode that produces white light using commercially available technology.
(3) INORGANIC WHITE LIGHT EMITTING DIODE.—The term ‘‘inorganic white light emitting diode’’ means a semiconductor diode that produces white light using commercially available technology.
for fiscal years 2003 and $70,000,000 for fiscal year 2004.

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers and terrestrial communications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak power reduction, or the efficient cooling of electronics.

SEC. 1216. RESEARCH REGARDING PRECIOUS METAL CARTRIDGES

The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysts directly, through national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.

Subtitle B—Renewable Energy

SEC. 1221. ENERGIZED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and deployment programs to emphasize technologies that can provide reliable, competitive and low-cost energy for electricity and transportation, as well as economic diversity, national security, and environmental protection. The Secretary may consider the use of non-conventional energy resources in the energy infrastructure.

(b) PROGRAM GOALS.—

(1) In carrying out this subtitle, the Secretary shall develop goals and objectives for each program described in this subtitle, including goals to achieve the purpose of reducing greenhouse gas emissions and for the efficient use of energy and materials.

(2) The Secretary may establish one or more Energy Exchange Programs to encourage partnerships between the Federal Government and the private sector to achieve the goals described in paragraph (1).

(3) The Secretary shall establish strategies for achieving the goals, objectives, and performance targets described in paragraphs (1) and (2), including:

(A) an annual report to Congress on the progress made in achieving the goals and objectives described in paragraphs (1) and (2);

(B) a system to monitor and evaluate the performance of the Energy Exchange Programs established under paragraph (2).

(4) The Secretary may establish one or more Energy Exchange Programs to encourage partnerships between the Federal Government and the private sector to achieve the goals described in paragraph (1).

(c) REPORT TO CONGRESS.—Not later than 2 years after enactment of this Act, the Secretary shall submit to Congress an energy exchange program report containing:

(1) a description of the Energy Exchange Programs established under paragraph (2); and

(2) an evaluation of the progress made in achieving the goals and objectives described in paragraphs (1) and (2).

SEC. 1222. BIOENERGY PROGRAMS.

(a) PROGRAM DIRECTION.—The Secretary shall carry out research, development, demonstration, and technology development activities related to bioenergy, including programs under paragraphs (4) and (6) of section 1221(b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) BIOPower ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biopower energy systems—

(A) $60,300,000 for fiscal year 2003;

(B) $68,850,000 for fiscal year 2004;

(C) $76,900,000 for fiscal year 2005; and

(D) $85,000,000 for fiscal year 2006.

(2) BIOfuels ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biofuels energy systems—

(A) $57,500,000 for fiscal year 2003;

(B) $66,125,000 for fiscal year 2004;

(C) $74,800,000 for fiscal year 2005; and

(D) $84,800,000 for fiscal year 2006.

(3) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—The Secretary may use funds authorized under paragraph (1) or (2) for research, development, demonstration, and deployment activities under this section to develop a new generation of turbine technologies that are being or have been field tested; and to develop integrated bioenergy systems that use the same technology for multiple purposes, including electricity generation and hydrogen production.

SEC. 1223. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Hydrogen Future Act of 2002".

(b) PURPOSES.—Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 1991 note) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) to direct the Secretary to develop a program of technology assessment, information transfer, and education in which Federal agencies, members of the transportation, energy, and other industries, and other entities may participate;"

"(3) to develop methods of hydrogen production that minimize production of greenhouse gases, including—"

(1) efficient production from nonrenewable resources; and

(2) cost-effective production from renewable resources such as biomass, geothermal, wind, and solar energy; and"

(8) to foster the use of hydrogen as a major energy source, including developing the use of hydrogen in—"

(A) isolated villages, islands, and communities in which other fuels are not available or are very expensive; and

(B) foreign economic development, to avoid environmental damage from increased fossil fuel use.

(c) REPORT TO CONGRESS.—Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 1240) is amended—

(1) in subsection (a), by striking "January 1, 1999," and inserting "1 year after the date of enactment of the Hydrogen Future Act of 2002; and

(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

(1) an analysis of hydrogen-related activities throughout the United States Government to identify productive areas for increased intragovernmental collaboration;"
The Secretary shall:

(1) by striking “The Secretary” and inserting the following:

"(2) ADVICE AND ASSISTANCE.—The Secretary;" and

(2) in subsection (b), by redesignating subparagraphs (A) through (D) as clauses (1) through (4), respectively, and indenting appropriately;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(C) by striking “The Secretary,” in and inserting the following:

"(1) IN GENERAL.—The Secretary, in;"

(D) by striking “The information” and inserting the following:

"(2) ACTIVITIES.—The information; and"

(E) in paragraph (1) (as designated by subparagraph (C)):

(i) in subparagraph (A) (as redesignated by subparagraph (B)), by striking “an inventory” and inserting “an update of the inventory;” and

(ii) in subparagraph (B) (as redesignated by subparagraph (B)), by striking “all the technological and the non-Federal requirement under paragraph (2), by striking “projects proposed” and inserting “projects” and inserting “basis”;

(D) in section 204(a)(2), by striking “systems described in subsections (a) and (b)” and inserting “projects”;

(3) by adding at the end the following:

"(10) $65,000,000 for fiscal year 2003;

(11) $70,000,000 for fiscal year 2004;

(12) $75,000,000 for fiscal year 2005; and

(13) $80,000,000 for fiscal year 2006.”;

(i) FUEL CELLS;

(i) INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 201 of the Hydrogen Future Act of 1996 is amended—

(A) in subsection (a) by striking “(A) Not later than 180 days after the date of enactment of this section, and subject to” and inserting “(A) IN GENERAL—Subject;”;

(B) by striking “with” and all that follows and inserting “into Federal, State, and local government facilities for stationary and transportation applications;”;

(C) in subsection (b), by striking “gas is” and inserting “basis”;

(D) in subsection (c)(2), by striking “systems described in subsections (a)(1) and (a)(2)” and inserting “projects”;

(4) NON-FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section, and is necessary to meet the objectives of this Act.”;

(2) COOPERATIVE AND COST-SHARING AGREEMENTS.—

INTEGRATION OF TECHNICAL INFORMATION.—Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note: Public Law 104–271) is amended by striking section 202 and inserting the following:

"SEC. 202. INTERAGENCY TASK FORCE.

(1) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this section, the Secretary shall establish an interagency task force led by a Deputy Assistant Secretary of the Department of Energy and comprised of representatives of—

(A) the Office of Science and Technology Policy;

(B) the Department of Transportation;

(C) the Department of Defense;

(D) the Department of Commerce (including the National Institute for Standards and Technology);

(E) the Environmental Protection Agency;

(F) the National Aeronautics and Space Administration; and

(G) other agencies as appropriate.

(2) DUTIES.—

(A) IN GENERAL.—The task force shall develop a plan for carrying out this title.

(B) FOCUS OF PLAN.—The plan shall focus on development and demonstration of integrated systems and components for—

(A) hydrogen production, storage, and use in Federal, State, and local government buildings and vehicles;

(B) hydrogen-based infrastructure for buses and other fleet transportation systems that include zero-emission vehicles; and

(C) hydrogen-based distributed power generation, including the generation of combined heat, power, and hydrogen.

"SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.

The Secretary shall enter into cooperative and cost-sharing agreements with Federal, State, and local agencies for participation by the agencies in demonstrations at facilities administered by the agencies, with the aim of integrating high efficiency hydrogen systems using fuel cells into the facilities to provide immediate benefits and promote a smooth transition to hydrogen as an energy source.

"SEC. 204. INTEGRATION AND DISSEMINATION OF TECHNICAL INFORMATION.

The Secretary shall—
SECTION 1231. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to enhance fossil energy.

(b) PROGRAM GOALS.—

(1) CORE FOSSIL RESEARCH AND DEVELOPMENT.—In fossil research and development program shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2025:—

(A) electricity generating efficiencies of 60 percent for coal and 75 percent for natural gas;

(B) combined heat and power thermal efficiencies of more than 85 percent;

(C) fuels utilization efficiency of 75 percent for the production of liquid transportation fuels from coal;

(D) zero emissions of mercury and of emissions that form fine particles, sulfates, and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent through efficiency improvements and 100 percent with sequestration; and

(F) improved reliability, efficiency, reductions of air pollutant emissions, or reductions in solid waste disposal requirements.

(2) OFFSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the offshore oil and natural gas resources program shall be to develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico.

(3) ONSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the onshore oil and natural gas resources research program shall be to advance the science and technology available to domestic onshore petroleum producers, particularly independent operators through—

(A) advances in technology for exploration and production of domestic petroleum resources, particularly those not accessible with current technology;

(B) improvement in the ability to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(C) development of technologies and practices that reduce the threat to the environment from petroleum exploration and production and decrease the cost of effective environmental compliance.

(4) TRANSPORTATION FUELS.—The goals of the transportation fuels program shall be to increase the price elasticity of oil supply and demand by focusing on technologies that—

(A) reducing the cost of producing transportation fuels from coal and natural gas; and

(B) indirect liquefaction of coal and biomass.

(c) ORGANIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this section—

(A) $450,000,000 for fiscal year 2003;

(B) $500,000,000 for fiscal year 2004;

(C) $522,000,000 for fiscal year 2005; and

(D) $558,000,000 for fiscal year 2006.

Subtitle C—Fossil Energy

SECTION 1232. POWER PLANT IMPROVEMENT INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to enhance fossil energy.

(b) PROJECT CRITERIA.—

(1) IN GENERAL.—The milestones shall become more restrictive over the life of the program.

(2) 2010 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2010/2015 thermal efficiency of—

(A) forty-five percent for coal of more than 9,000 Btu; and

(B) forty-four percent for coal of 7,000 to 9,000 Btu; and

(C) forty-two percent for coal of less than 7,000 Btu.

(3) 2020 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2020 thermal efficiency of—

(A) sixty percent for coal of more than 9,000 Btu;

(B) fifty-nine percent for coal of 7,000 to 9,000 Btu; and

(C) fifty-seven percent for coal of less than 7,000 Btu.

(4) EMISSIONS MILESTONES.—The milestones shall include near zero emissions of mercury and greenhouse gases and of emissions that form fine particles, sulfates, and acid rain.

(5) REGIONAL AND QUALITY DIFFERENCES.—The Secretary may consider regional and quality differences in developing the efficiency milestones.

(c) PROJECT CRITERIA.—The demonstration activities proposed at a new or existing coal-based electric generation unit having a nameplate rating of not less than 100 megawatts, excluding a co-production plant, shall include at least one of the following—

(1) a means of recycling or reusing a significant portion of coal combustion wastes produced by coal-based generating units, excluding activities that are commercially available by the date of enactment of this subtitle;

(2) a means of capture and sequestering emissions, and any other technology that has the potential to achieve near zero emissions.

SECTION 1233. RESEARCH AND DEVELOPMENT FOR ADVANCED SAFE AND EFFICIENT COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish a cooperative research partnership involving appropriate Federal agencies, coal producers, including associations, equipment manufacturers, universities with mining engineering departments, and other relevant entities.

(1) development mining research priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) establish a process for conducting joint industry-Government research and development; and

(3) expand mining research capabilities at institutions of higher education.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out activities under this section—

(A) $30,000,000 in fiscal year 2004 and $25,000,000 in fiscal year 2005; and

(B) $20,000,000 in fiscal year 2006.

(2) LIMITATION ON USE OF FUNDS.—Not less than 20 percent of any funds appropriated under this section shall be used to support activities that are in cooperation with other Federal agencies to effectuate the purposes of the Secretary of Energy.
(3) *Deepwater.*—The term “deepwater” means a water depth that is greater than 200 but less than 1,500 meters.

(4) *Eligible award recipient.*—The term “eligible award recipient” includes—

(A) a research institution;

(B) an institution of higher education;

(C) a corporation;

(D) a managing consortium formed among entities described in subparagraphs (A) through (C).

(5) *Institution of higher education.*—The term “institute of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(6) *Managing consortium.*—The term “managing consortium” means an entity that—

(A) exists as of the date of enactment of this section;

(B)(i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) is exempt from taxation under section 501(a) of that Code;

(C) is experienced in planning and managing programs in natural gas or other petroleum exploration and production technology research, development, and demonstration; and

(D) has demonstrated capabilities and experience in representing the views and priorities of industry, higher education, and other research institutions in formulating comprehensive research and development plans and programs.

(7) *Program.*—The term “program” means the program of research, development, and demonstration established under subsection (b)(1).

(8) *Ultra-deepwater.*—The term “ultra-deepwater” means a water depth that is equal to or greater than 1,500 meters.

(9) *Ultra-deepwater architecture.*—The term “ultra-deepwater architecture” means the integration of technologies to explore and produce natural gas or petroleum products located at ultra-deepwater depths.

(10) *Ultra-deepwater resource.*—The term “ultra-deepwater resource” means natural gas or any other petroleum resource (including methane hydrate) located in an ultra-deepwater area.

(11) *Unconventional resource.*—The term “unconventional resource” means natural gas or any other petroleum resource located in a formation on physically or economically inaccessible land currently available for lease for purposes of natural gas or oil or other petroleum exploration or production.

(b) *Ultra-deepwater and unconventional exploration and production program.*—

(1) *Establishment.*—(A) In general.—The Secretary shall establish a program of research, development and demonstration of, ultra-deepwater resource and unconventional resource exploration and production technologies.

(B) Location; implementation.—The program under this subsection shall be carried out—

(i) in areas on the outer Continental Shelf that, as of the date of enactment of this section, are available for leasing; and

(ii) on unconventional resources.

(2) *Components.*—The program shall include one or more programs for long-term research into—

(A) new deepwater ultra-deepwater resource and unconventional resource exploration and production technology research and development;

(B) environmental mitigation technologies for production of ultra-deepwater resource and unconventional resource.

(c) *Advisory Committee.*—

(1) *Establishment.*—Not later than 30 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater and Unconventional Resource Technology Advisory Committee.

(2) *Membership.*—

(A) *Composition.*—Subject to subparagraph (B), the advisory committee shall be composed of seven members appointed by the Secretary that—

(i) have extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry; and

(ii) are not Federal employees or employees of contractors to a Federal agency.

(B) *Expertise.*—Of the members of the advisory committee appointed under subparagraph (A)—

(i) at least four members shall have extensive knowledge of ultra-deepwater resource exploration and production technologies;

(ii) at least three members shall have extensive knowledge of unconventional resource exploration and production technologies.

(3) *Duties.*—The advisory committee shall advise the Secretary in the implementation of this section.

(4) *Compensation.*—A member of the advisory committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions of subchapter I of chapter 57 of title 5, United States Code.

(5) *Eligible award recipient.*—

(B) *In general.*—The Secretary shall make awards for research into, and demonstration of, ultra-deepwater resource exploration and production technologies;

(I) to maximize the value of the ultra-deepwater resources of the United States;

(II) to increase the supply of ultra-deepwater resources by lowering the cost and improving the efficiency of exploration and production of such resources; and

(III) to improve safety and minimize negative environmental impacts of that exploration and production.

(ii) *Unconventional resources.*—The Secretary shall make awards—

(i) to carry out research into, and development and demonstration of, technologies to maximize the value of unconventional resources; and

(ii) to develop technologies to accomplish simultaneously—

(I) increase the supply of unconventional resources by lowering the cost and improving the efficiency of exploration and production of unconventional resources; and

(II) improve safety and minimize negative environmental impacts of that exploration and production.

(ii) Ultra-deepwater architecture.—In furtherance of the purposes described in clause (i), the Secretary shall, where appropriate, solicit proposals from a managing consortium to develop and demonstrate next-generation architecture for ultra-deepwater resource production.

(B) *Unconventional resources.*—The Secretary shall make awards—

(i) to conduct research into, and development and demonstration of, technologies to improve the efficiency of unconventional resources; and

(ii) to develop technologies to accomplish simultaneously—

(I) increase the supply of unconventional resources by lowering the cost and improving the efficiency of exploration and production of unconventional resources; and

(II) improve safety and minimize negative environmental impacts of that exploration and production.

(c) *Conditions.*—An award made under this subsection shall be subject to the following conditions:

(1) *Multiple entities.*—If an award recipient is composed of more than one eligible organization, the recipient shall provide a signed contract, agreed to by all eligible organizations comprising the award recipient, that defines, in a manner that is consistent with all applicable law in effect as of the date of the contract, all rights to intellectual property for—

(i) technology in existence as of that date; and

(ii) future inventions conceived and developed using funds provided under the award.

(B) *Components of application.*—An application for an award for a demonstration project shall describe with specificity any intended commercial applications of the technology to be demonstrated.

(3) *Cost sharing.*—Non-Federal cost sharing shall be in accordance with section 1403.

(4) *Plan and funding.*—

(1) *In general.*—The Secretary, and where appropriate, a managing consortium under subsection (d)(1)(A)(ii), shall formulate annual operating and performance objectives, develop a multiyear technology roadmap, and establish research and development priorities for the funding of activities under this section which will serve as guidelines for making awards including cost-sharing or matching commitments.

(2) *Industry input.*—In carrying out this program, the Secretary shall promote maximum industry input through the use of managing consortia or other organizations in planning and executing the research areas and conducting workshops or reviews to ensure that this program focuses on industry problems and needs.

(f) *Auditing.*—

(1) *In general.*—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds authorized by this section, provided through a managing consortium, are expended in a manner consistent with the purposes of this section.

(2) *Reports.*—The auditor retained under paragraph (1) shall submit to the Secretary, and the Secretary shall transmit to the appropriate congressional committees, an annual report that describes—

(A) the findings of the auditor under paragraph (1); and

(B) a plan under which the Secretary may remedy any deficiencies identified by the auditor.

(g) *Authorization of Appropriations.*—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(h) *Termination of Authority.*—The authority provided by this section shall terminate on September 30, 2009.

(Sec. 1235. Research and Development for New Natural Gas Transportation Technologies.)

The Secretary of Energy shall conduct a comprehensive 5-year program for research, development and demonstration to improve the reliability, efficiency, safety and integrity of the natural gas transportation and distribution infrastructure and for distributed energy resources (including microturbines, fuel cells, advanced engine-generators, gas turbines, reciprocating engines, hybrid power plants, and combined heat and power plants); and establish, maintain, and operate a research program in microturbines and related technologies and to support the continued development of microturbines and related technologies.

(3) *Construction technologies.*—The Secretary shall establish a program of construction technology research and development for next-generation ultra-deepwater architecture.

(Sec. 1236. Authorization of Appropriations for Office of Arctic Energy.)

There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) such sums as may be necessary, but not to exceed $25,000,000 for each of fiscal years 2001 through 2011.

(Sec. 1237. Clean Coal Technology Loan.)

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the commercial plant constructed under United States Department of Energy cooperative agreement number DE-FC22-91PC95644 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

Subtitle D—Nuclear Energy

SEC. 1241. Enhanced Nuclear Energy Research, Development, and Demonstration.

(a) Program Direction.—The Secretary shall conduct an energy research, development, demonstration, and technology deployment program to address nuclear energy.

(b) Program Goals.—The program shall—

(I) support research related to existing United States nuclear power reactors to extend their lifetimes and increase the rate of optimizing their current operations for greater efficiencies;
(2) examine—
(A) advanced proliferation-resistant and passively safe reactor designs;
(B) new reactor designs with higher efficiency and improved safety;
(C) in coordination with activities carried out under the amendments made by section 1223, designs for high temperature reactors capable of producing large-scale quantities of hydrogen using thermochemical processes;
(D) proliferation-resistant and high burn-up nuclear fuels;
(E) minimization of generation of radioactive materials;
(F) improved nuclear waste management technologies; and
(G) improved instrumentation science;
(3) attract new students and faculty to the nuclear sciences and nuclear engineering and related fields (including health physics and nuclear and radiochemistry) through—
(A) university-based fundamental research for existing faculty and new junior faculty;
(B) support for the re-licensing of existing training reactors at universities in conjunction with industry; and
(C) converting the conversion of existing training reactors with proliferation-resistant fuels that are low enriched and to adapt those reactors to new investigative uses;
(4) safeguard national capital and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in cooperation with industry;
(5) ensure that our nation has adequate capability to power future satellite and space missions; and
(6) maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can use these facilities.
(c) AUTHORIZATION OF APPROPRIATIONS.—
(1) CORK NUCLEAR RESEARCH PROGRAMS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under subsection (b)(1) through
(A) $100,000,000 for fiscal year 2003;
(B) $110,000,000 for fiscal year 2004;
(C) $120,000,000 for fiscal year 2005; and
(D) $130,000,000 for fiscal year 2006.
(2) UNIVERSITY-NATIONAL LABORATORY INTERACT-
ions.—There are authorized to be appropriated for activities under this section—
(A) $33,000,000 for fiscal year 2003;
(B) $37,900,000 for fiscal year 2004;
(C) $43,600,000 for fiscal year 2005; and
(D) $50,100,000 for fiscal year 2006.
SEC. 1243. NUCLEAR ENERGY RESEARCH INITIAT-
VE.—
(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Research Initiative for grants for research relating to nuclear energy.
(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), the following amounts are authorized for activities under this section—
(1) $3,785,000,000 for fiscal year 2003;
(2) $4,586,000,000 for fiscal year 2004;
(3) $5,000,000,000 for fiscal year 2005; and
(4) $5,000,000,000 for fiscal year 2006.
SEC. 1244. NUCLEAR ENERGY PLANT OPTIMIZA-
TION PROGRAM.—
(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Plant Optimization Program for grants to improve nuclear energy plant reliability, availability, and productivity. Notwithstanding section 1403, the program shall require industry cost-sharing of at least 50 percent and be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department.
(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.
SEC. 1245. NUCLEAR ENERGY TECHNOLOGY DE-
VELOPMENT PROGRAM.—
(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Technology Development Program to develop a technology roadmap to design and develop new nuclear energy powerplants in the United States.
(b) GENERATION IV REACTOR STUDY.—The Secretary shall, as part of the program under subsection (a), also conduct a study of Generation IV nuclear energy systems, including development of performance data and performance characteristics for commercial reactors of improved designs for advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiency, lower cost and improved safety, proliferation-resistant and high burn-up fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and high burn-up fuels.
(c) NUCLEONICS AND NANOENGINEERING RE-
SEARCH CENTERS AND MAJOR INSTRUMENTA-
TION.—
(1) AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the Secretary, acting through the Office of Science, shall—
(A) conduct a comprehensive program of research involving, including research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing; and
(B) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and that are integral part of the Office and that are integral part of the Office and that are integral part of the Office.
(2) $120,000,000 for fiscal year 2005; and
(3) $212,000,000 for fiscal year 2006.
(2) PROJECTS.—Projects under paragraph (1) may include the measurement of properties at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration of technologies required to miniaturize sensors or nanotechnology into bulk materials or other technologies.

(3) FACILITIES.—Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities and related instrumentation science.

(4) COLLABORATION.—The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. Each facility under this subsection shall have a specific mission of technology transfer to other institutions and to industry.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(a) TOTAL AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the following amounts are authorized for activities under this section—

(A) $270,000,000 for fiscal year 2003;

(B) $290,000,000 for fiscal year 2004;

(C) $330,000,000 for fiscal year 2005 and

(D) $350,000,000 for fiscal year 2006.

(b) NONSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—From amounts authorized under paragraph (1), the following amounts are authorized to carry out subsection (c)—

(A) $175,000,000 for fiscal year 2003;

(B) $150,000,000 for fiscal year 2004;

(C) $120,000,000 for fiscal year 2005; and

(D) $100,000,000 for fiscal year 2006.

SEC. 1253. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of activities to improve the Nation’s computing capability across a diverse set of grand challenge computationally based science problems related to energy missions.

(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—

(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms;

(2) enhance national laboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets; and

(3) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address DOE missions are available; explore new computing approaches and technologies that promise to advance scientific computing.

(c) CRITICAL ENERGY INFRASTRUCTURE FACILITIES AND PLANNING.

(1) CRITICAL INFRASTRUCTURE FACILITIES.—

(A) definition—Under this section, the following terms have the meanings given to them by this section:

(i) "critical infrastructure" has the meaning given to it in section 41 of the Homeland Security Act of 2002;

(ii) "energy infrastructure" means the energy critical infrastructure described in subsection (2); and

(iii) "vulnerability" means the opportunities for disruption to infrastructure as defined in section 41 of the Homeland Security Act of 2002;

(B) critical energy infrastructure facilities—For purposes of this section, critical energy infrastructure facilities are facilities used to provide energy services and include energy delivery systems, critical energy infrastructure control systems, the energy critical infrastructure technology deployment program, and the critical energy infrastructure technology research program.

(C) critical energy infrastructure technology deployment program—The Secretary shall—

(i) conduct a study to determine the most cost-effective technologies to improve the resilience of energy delivery systems; and

(ii) develop a plan to implement the findings of the study.

(2) critical energy infrastructure technology research program—The Secretary shall—

(A) establish a program of research, development, and demonstration of new technologies to improve the resilience of energy delivery systems; and

(B) develop a plan to implement the findings of the study.

(3) critical energy infrastructure vulnerability management program—The Secretary shall—

(A) establish a program of research, development, and demonstration of new technologies to improve the resilience of energy delivery systems; and

(B) develop a plan to implement the findings of the study.

(4) CRITICAL INFRASTRUCTURE FACILITIES AND PLANNING.—The Secretary shall—

(A) ensure that critical energy infrastructure facilities are designed and operated to be resilient to accidental or intentional disruptions to energy infrastructure services;

(B) develop a plan to implement the findings of the study.

(C) develop a plan to implement the findings of the study.

(D) ensure that critical energy infrastructure facilities are designed and operated to be resilient to accidental or intentional disruptions to energy infrastructure services;

(E) develop a plan to implement the findings of the study.

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(Y) develop a plan to implement the findings of the study.

(Z) develop a plan to implement the findings of the study.

(aa) foster partnerships among industry research organizations to facilitate industry participation in research under this section and to fulfill applicable cost-sharing requirements.

(bb) authorize of appropriations.—There is authorized to be appropriated to the Secretary for the program for the fiscal years ending in the years 2003 through 2006—

(C) FOR ENERGY MISSIONS.

(D) FOR ENERGY MISSIONS.

(E) FOR ENERGY MISSIONS.

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term "critical energy infrastructure facility" means a physical or cyber-based system or service for the generation, transmission or distribution of electrical energy, or the production, refining, storage or transportation of petroleum, natural gas, or petrochemical products, the incapacitation or destruction of which would have a debilitating impact on the defense or economic security of the United States. The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 109 of the Atomic Energy Act of 1954 (42 U.S.C. 2132 and 2136).

SEC. 1262. RESEARCH AND DEMONSTRATION FOR REMEDIATION OF GROUNDWATER FROM ENERGY ACTIVITIES

(a) In General.—The Secretary shall carry out a research, development, demonstration, and technology deployment program to improve methods for environmental restoration of groundwater contaminated by energy activities, including oil and gas production, surface and underground mining of coal, and in-situ extraction of energy resources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2003 through 2008.

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH

(a) PROOF OF CONCEPT.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) carry out observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere; (B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models; (C) improve the treatment of aerosols and clouds in climate models; (D) reduce the uncertainty in decade-to-century model-based projections of climate change; and (E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy use and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or (ii) to evaluate the potential of proposed methods of carbon sequestration; (B) develop and test carbon cycle models; and (C) acquire data and develop and test models to understand the transport of greenhouse gases, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or (B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated assessment of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003; (2) $175,000,000 for fiscal year 2004; (3) $200,000,000 for fiscal year 2005; and (4) $250,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technologies that reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “and” at the end; (B) in paragraph (3) by striking the period at the end and inserting “, and”; and (C) by adding at the end the following:

“(4) solutions to the effective management of greenhouse gas emissions in the long term by development of technologies and practices designed to—

(A) reduce or avoid anthropogenic emissions of greenhouse gases from emissions streams; and (B) improve the treatment of aerosols and clouds in climate models;

(2) in subsection (b)—

(A) in paragraph (2), by striking “subsection” (A) and inserting “paragraphs (1) through (4) of subsection” (A); and (B) in paragraph (3)—

(i) in subparagraph (R), by striking “and” at the end; (ii) in subparagraph (S), by striking the period at the end and inserting “, and”; and (iii) by adding at the end the following:

“(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of technologies—

(i) renewable energy systems; (ii) advanced fossil energy technology; (iii) advanced nuclear power plant design; (iv) fuel cycle technology; (v) industrial and transportation applications; (vi) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon; (vii) efficient electrical generation, transmission and distribution technologies; and (viii) efficient end use energy technologies.”.

Subtitle B—Cooperative State Research, Extension, and Education Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases; (ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and (iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort; (B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and (C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and (B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) NATURAL RESOURCES CONSERVATION SERVICE.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the State of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable accurate and accurate, and verification, for a wide range of agricultural and forestry practices.

(B) promote understanding of—

(i) changes in soil carbon content in agricultural soils, plants, and trees; and (ii) net emissions of other greenhouse gases.

(c) Cooperative State Research, Extension, and Education Service.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(2) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate existing projects undertaken by the Agricultural Research Service or other Federal agencies.

(d) RESEARCH CONSORTIA.—

SEC. 1312. CARBON SEQUESTRATION APPLIED RESEARCH AND EDUCATION SERVICE.

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate existing projects undertaken by the Agricultural Research Service or other Federal agencies.

(C) RESEARCH CONSORTIA.—
section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) CONSORTIA.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;
(B) private research institutions;
(C) State geological surveys;
(D) agencies of the Department of Agriculture;
(E) research institutes of the National Academy of Sciences and Space Administration and the Department of Energy;
(F) other Federal agencies;
(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and
(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall provide an opportunity for the Cooperatives State Research, Extension, and Education Service, in cooperation with interested local jurisdictions and State agricultural and conservation organizations, shall develop user- friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestration benefits of conservation practices and not changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The projects under subparagraph (A) shall achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROPOSALS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects, designed to demonstrate in a cost-effective manner the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and carbon in agricultural soils, plants, and trees; and
(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baseline, carbon dioxide leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted to the Secretary at least 60 days before the beginning of each fiscal year, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(f) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic benefits and environmental impacts that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouse gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and
(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(B) ALLOCATION.—Of the amounts made available to carry out this section, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH

(1) DEMONSTRATION PROJECTS.—

(A) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestration benefits of conservation practices and not changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The projects under subparagraph (A) shall achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROPOSALS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects, designed to demonstrate in a cost-effective manner the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and carbon in agricultural soils, plants, and trees; and
(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baseline, carbon dioxide leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted to the Secretary at least 60 days before the beginning of each fiscal year, in cooperation with interested local jurisdictions and State agricultural and conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestration benefits of conservation practices and not changes in greenhouse gas emissions.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(f) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic benefits and environmental impacts that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouse gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and
(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(B) ALLOCATION.—Of the amounts made available to carry out this section, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1313. CARBON STORAGE AND SEQUESTRATION BASELINE AND ACCOUNTING SYSTEM

(a) DEFINITIONS.—In this section—

(1) CLEAN ENERGY TECHNOLOGY.—The term ‘‘clean energy technology’’ means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and
(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ‘‘interagency working group’’ means the Interagency Working Group on Clean Energy Technology Exports established under section 1311(b).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the United States Agency for International Development shall jointly establish an Interagency Working Group on Clean Energy Technology Exports established under this section.

(2) ELIGIBLE PARTNERS.—The Secretary of State, the Department of Defense, the Export-Import Bank, the Overseas Private Investment Corporation, the Export-Import Bank of China, the Export-Import Bank of South Africa, the Development Bank of South Africa, and the Overseas Private Investment Corporation may, to the extent practicable, represent the United States in the interagency working group.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage, carbon capture and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.

Subtitle C—International Energy Technology Transfer
(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress describing activities carried out under the program, including a description of assistance awards made under paragraphs (1) and (2) of this subsection, and each Federal agency or other entity may request a refund of amounts paid pursuant to this section to the extent that the assistance was not used for the purpose for which it was awarded.

(f) No direct support provided to a Federal agency or other entity under paragraph (1) of this subsection shall be considered to be taxable income for the purpose of the internal revenue code of 1986.

(g)飐...
SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.
Section 104 (15 U.S.C. 2934) is amended—
(1) by inserting “short-term and long-term” before “goals” in subsection (b)(1);
(2) by striking “useful information on which to base decisions related to” in subsection (b)(1) and inserting “information relevant and readily usable by local, State, and Federal decisionmakers, as well as other end-users, for the formulation of the Committee’s science policy, the administration of scientific research programs, and shall be a representative of an agency that contributes substantially to the scientific research capability of the Program, to the Program.”;
(4) by striking “other subcommittees and working groups as it sees fit.”;
“(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and
(B) such additional members as the Chair of the Committee may, from time to time, appoint.”;
“(3) CHAIR.—A high ranking official of one of the departments or agencies described in subsection (b) shall be the Chair of the Committee with advice from the Chairman of the Council, shall chair the Subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of scientific research programs, and shall be a representative of an agency that contributes substantially to the scientific research capability of the Program, to the Program.”;
“(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.”.
“SEC. 1335. INTEGRATED PROGRAM OFFICE.
Section 104 (15 U.S.C. 2934) is amended—
(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and
(2) by inserting after subsection (c) the following:
“(d) INTEGRATED PROGRAM OFFICE.—
“(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.
“(2) FUNCTION.—The integrated program office shall—
“(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;
“(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;
“(C) ensure program and budget recommendations of the agencies are communicated to the President and are integrated into the climate change action strategy;
“(D) solicit, identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and
“(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.”;
(3) by striking “in paragraph (2) of subsection (c), as redesignated, and inserting “Committee and the Integrated Program Office,”; and
(4) by inserting “and the Integrated Program Office” after “Committee” in paragraph (1) of subsection (d), as redesignated.
“SEC. 1336. RESEARCH GRANTS.
Section 105 (15 U.S.C. 2935) is amended—
(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;
(2) by inserting after paragraph (5) the following:
“(d) METHODS FOR IMPROVING MODELING AND PREDICTIVE CAPABILITIES AND DEVELOPING ASSESSMENT METHODOLOGIES.—
“(1) The National Science Foundation shall—
“(A) make available to the public research results from the National Global Climate Change Research Program through the National Science Foundation’s digital library and through grants made under this title, considering in particular its usefulness to local, State, and Federal decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.”.
“PART II—NATIONAL CLIMATE SERVICES AND MONITORING
“SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.
Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision as amended or repealed by such amendment or repeal, and not as a separate provision, except as otherwise expressly provided.
“SEC. 1342. CHANGES IN FINDINGS.
Section 2 (15 U.S.C. 2901) is amended—
(1) by striking “Weather and climate change affect” in paragraph (1) and inserting “Weather, climate change, and climate variability affect public safety, environmental security, human health,”;
(2) by striking “climate” in paragraph (2) and inserting “climate, including seasonal and interannual fluctuations,”;
(3) by striking “changes,” in paragraph (5) and inserting “changes and providing free exchange of meteorological data,”; and
(4) by adding at the end the following:
“(6) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.”;
“SEC. 1343. TOOLS FOR REGIONAL PLANNING.
Section 5(d) (15 U.S.C. 2904(d)) is amended—
(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively;
(2) by inserting after paragraph (9) the following:
“(d) METHODS FOR IMPROVING MODELING AND PREDICTIVE CAPABILITIES AND DEVELOPING ASSESSMENT METHODOLOGIES.—
“(1) The National Science Foundation shall—
“(A) make available to the public research results from the National Global Climate Change Research Program through the National Science Foundation’s digital library and through grants made under this title, considering in particular its usefulness to local, State, and Federal decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.”.
“SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.
Section 106 (15 U.S.C. 2906) is amended—
(1) by striking “1979,” and inserting “2002,”;
(2) by striking “1980,” and inserting “2003;”;
(3) by striking “1980,” and inserting “2003.”;
(4) by striking “1980,” and inserting “2003.”; and
(5) by inserting “2003,” and inserting “2003.”.
(3) by striking "1981," and inserting "2004," and
(4) by striking "$25,500,000" and inserting "$57,500,000.

SEC. 1344. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific region, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,300,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific Enso Applications Center.

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Science a plan of action for the National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for establishing a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce biases.

(1) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;
(2) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long- and short-term time schedule and at a range of spatial scales;
(3) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;
(4) in coordination with the private sector, improving the capacity to access the impacts of predicted and projected climate changes and variability;
(5) a program for long-term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and
(6) mechanisms to coordinate among Federal agencies, State and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.

SEC. 1346. ARCTIC RESEARCH AND POLICY.

The Act (15 U.S.C. 2901 et seq.) is amended by adding at the end the following:

"(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director of the Commission (a) may make grants to persons to conduct research concerning the Arctic; and
(2) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

"(2) EFFECT OF ACTION BY EXECUTIVE DIRECTOR.—An action of the Executive Director under paragraph (1) shall be final and binding on the Commission.

SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.

"(a) IN GENERAL.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change described in this section.

"(1) A nationally coordinated network of research activities to carry out this program shall:
(2) develop a grid of observations and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;
(3) incorporate these mechanisms into advanced geophysical models of climate change;
(4) test and provide data from spaceborne and in situ sensors.

"(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term "abrupt climate change" means a change in climate that occurs so rapidly that it is difficult or impossible for human and natural systems to adapt.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out this title.

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

"(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain a National Oceanic and Coastal Observing System that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—
(1) understanding and responding to human-induced and natural processes of global change;
(2) improving weather forecasts and public warnings;
(3) strengthening national security and military preparedness;
(4) improving the safety and efficiency of marine operations;
(5) supporting efforts to restore the health of coastal and marine ecosystems and living resources;
(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;
(7) reducing and mitigating ocean and coastal pollution; and
(8) gathering information that contributes to public awareness of the state and importance of the oceans.

"(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system in carrying out this responsibility shall—
(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—
(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation; and
(B) recommends how coordinated and planned observing activities can be integrated in a cost-effective manner;
(2) provides for regional and concept demonstration projects;
(3) describes the role and estimated budget of each Federal agency in implementing the plan; and
(4) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;
(4) serve as the mechanism for coordinating Federal ocean observing requirements and activities;
(5) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;
(6) approve standards and protocols for the administration of the system, including—
(A) a common set of measurements to be collected and distributed routinely and by uniform methods;
(B) standards for quality control and assessment of data; and
(C) standards for monitoring, testing and employment of forecast models for ocean conditions;
(7) develop, maintain, and improve real-time data systems that ensure full use of new sources of data from space-borne and in situ sensors.
(6) Focused research programs.
(7) Technology development program to de-
velop new observing technologies and tech-
niques, including data management and dis-
semination.
(8) Public outreach and education.
SEC. 1352. AUTHORIZATION OF APPROPRIA-
TIONS.
For development and implementation of an in-
tegrated ocean and coastal observation system un-
der the Act, and for the cost of the development
and provision of operational assistance to regi-
onal coastal ocean observing systems, there are authorized to be appropriated $2,251,000,000 in fiscal year 2002, $2,351,000,000 in fiscal year 2003, $390,000,000 in fiscal year 2004, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.
Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—
(1) by striking "and" after the semicolon in paragraph (21);
(2) by inserting, after paragraph (22) as paragraph (23); and
(3) by inserting after paragraph (21) the following:
"(22) perform research to develop enhanced
measurements, calibrations, standards, and
standards and technologies which will enable the reduced pro-
duction in the United States of greenhouse gases associated
with the burning of fossil fuels, such as carbon
monoxide, methane, nitrous oxide, ozone,
perfluorocarbons, hydrofluorocarbons, and sulfur
hexafluoride; and"

SEC. 1362. DEVELOPMENT OF NEW MEASURE-
MENT TECHNOLOGIES.
The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (in-
cluding technologies to measure carbon changes due to changes in land use cover) to calculate—
(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;
(2) noncarbon dioxide greenhouse gas emis-
sions from transportation;
(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and
(4) any other greenhouse gas emission or re-
duction for which no accurate or reliable measure-
mments were previously available.

SEC. 1363. ENHANCED ENVIRONMENTAL MEAS-
UREMENTS AND STANDARDS.
The National Institute of Standards and Technol-
y (15 U.S.C. 272 et seq.) is amended—
(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and
(2) by inserting after section 16 the following: "SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.
(a) IN GENERAL.—The Director shall estab-
lish within the Institute a program to perform
and support research on global climate change standards and processes, with the goal of pro-
viding scientific and technical knowledge appli-
cable to the development of greenhouse gases (as defined in section 4 of the Global Climate
Change Act of 2002).
(b) RESEARCH PROGRAM.—(1) The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.
(2) RESEARCH PROJECTS.—The specific con-
tents and priorities of the research program shall be determined in consultation with ap-
propriate Federal agencies, including the Environ-
mental Protection Agency, the National Oceanic and Atmospheric Administration, and the Na-
tional Aeronautics and Space Administration.
The program generally shall include basic and applied research projects.
(3) To develop and provide the enhanced
measurements, calibrations, data, models, and reference material standards which will enable
the monitoring of greenhouse gases;
(4) To assist in establishing a baseline refer-
ence point for future trading in greenhouse gases and the measurement of progress in emis-
sions reduction;
(5) To be exchanged internationally as a scientific or technical information which has the stated purpose of mutually recog-
nized measurements, standards, and procedures for reducing greenhouse gases; and
(6) To assist in developing improved indus-
trial processes designed to reduce or eliminate greenhouse gases.
(c) NATIONAL MEASUREMENT LABORAT-
ORIES.—(1) IN GENERAL.—In carrying out this sec-
tion, the Director shall utilize the collective
skills of the National Measurement Laboratories of the National Institute of Standards and
Technology to improve the accuracy of measure-
ments that will permit better understanding and
control of these industrial chemical processes and
result in the reduction or elimination of greenhouse gases.
(2) MATERIAL, PROCESS, AND BUILDING RE-
SEARCH.—The National Measurement Labora-
tories shall carry out research under this subsec-
tion that includes—
(A) developing material and manufacturing
processes which are designed for energy effi-
ciency and which reduce greenhouse gas emissions
into the environment;
(B) developing environmentally-friendly, 
‘green’ chemical processes to be used by indus-
try; and
(C) enhancing building performance with a
focus in developing standards or tools which
will help incorporate low- or no-emission tech-
nologies into building designs.
(3) STANDARDS AND TOOLS.—The National
Measurement Laboratories shall develop stand-
ards and tools of exceptional quality for
greenhouse gases. In carrying out this subsection that includes—
(A) include the National Institute of Standards and
Technology developed in the National Assessments pre-
pared under the Global Change Research Act of
(B) PREPAREDNESS RECOMMENDATIONS.—The pro-
cess shall submit a list of recommendations within
2 years after the date of enactment of this Act
that identifies and recommends implementation
and funding strategies for short- and long-term
strategies that may be taken by the national, re-

dional, State, and local level—
(1) to reduce vulnerability of human life and
property;
(2) to improve resilience to hazards;
(3) to minimize economic impacts; and
(4) to reduce threats to critical biological and
ecological processes.
(4) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated to the
Secretary of Commerce $4,500,000 to implement
the requirements of this section.
SEC. 1372. COASTAL VULNERABILITY AND ADAP-
TATION.
(a) COASTAL VULNERABILITY.—Within 2 years
after the date of enactment of this Act, the Sec-

dary shall collect and compile current

information on climate change, sea level rise, and
fluctuation of Great Lakes water levels. The Secretary may also establish,

as warranted, longer term regional assessment

programs. The Secretary shall also consult with the governments of Canada and Mexico as ap-

propriate in developing such regional assess-
nments.
(b) VULNERABILITY ASSESSMENTS—These
assessments shall be carried out—
(1) to reduce vulnerability of human life and
property;
(2) to improve resilience to hazards;
(3) to minimize economic impacts; and
(4) to reduce threats to critical biological and
ecological processes.
(c) AVAILABILITY OF INFORMATION.—The Sec-

etary shall make available appropriate infor-

mation and other technologies and products

that will assist national, regional, State, and

effectiveness of the best practices of the

and agencies of the Federal Government, State and local governments, and private organi-

zations.

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIF-
FUSION.
The Director of the National Institute of Standards and Technology, through the Manufac-
turing Extension Partnership Program, may develop a program to support the implementa-
tion of new “greening” manufacturing technologies and techniques by the more than 380,000 small
manufacturers.
SEC. 1365. AUTHORIZATION OF APPROPRIA-
TIONS.
There are authorized to be appropriated to the Director to carry out functions pursuant to sections
1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.
(a) IN GENERAL.—The President shall estab-
lish within the National Oceanic and Atmo-

spheric Administration, the National Oceanic and Atmospheric Administration, and the Na-
tional Aeronautics and Space Administration.
The program generally shall include basic and applied research projects.
(4) A methodology for projecting the ad-
aptation measures that will be required to
reduce the vulnerability of the United States to
the impacts of climate change.
(b) COORDINATION.—In designing such pro-
cgram the Secretary shall consult with the Fed-

eral Emergency Management Agency, the Envi-
ronmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local governments and agencies.
(c) VULNERABILITY ASSESSMENTS.—The pro-
cile shall—
(1) assess, on the basis of data and other
information developed under this Act and the
National Climate Change Technology Act of 1990 (15 U.S.C. 2921 et seq.), regional vulnerability to phenomena asso-
ciated with climate change and climate varia-

bility, including—
(A) increases in severe weather events;
(B) sea level rise and shifts in the hydrography of the environment;
(C) natural hazards, including tsunami, drought, flood and fire; and
(2) evaluate, based on predictions and other
informa-
(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual state adaptation plans that recommend targets and strategies to address coastal impacts associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of the Federal, State, and local agencies involved in the planning and management of the coastal zone.

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as roll easements, strategic retreat, State or Federal acquisition, and fee simple or other interest in land, conservation, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries;

(6) funding requirements and mechanisms.

(2) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall develop a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies for the coastal zone. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to the purposes of developing own State and local plans.

(3) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 2 to 1 thereafter. Distribution of these funds shall be based on the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(c)), adjusted in consultation with these funds to coastal States shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and any other significant Arctic areas. The Plan shall recommend both short- and long-term adaptation strategies and shall fund repair to the community in fee simple or other interest in land, as determined by the Secretary in consultation with the Secretaries of Commerce, in consultation with the Secretary of the Interior, the Secretary of the Environmental Protection Agency, and the Administrator of the Environmental Protection Agency, or $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1372. ARCTIC RESEARCH CENTER.

(a) Establishment.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 2003 through 2006 for the Arctic Research Center.

(b) Definitions.—In this section—

(1) the term ‘‘Arctic Research Center’’ means the Barrow Arctic Research Center established under subsection (a); and

(2) ‘‘Secretary’’ means the Secretary of Commerce.

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration may establish, through the National Oceanic and Atmospheric Administration’s Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast and support coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(b) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to pilot projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information or data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve participation of commercial entities that process raw or lightly processed data, often merging data that with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to—

(1) promote the development of commercial applications potentially available from the remote sensing industry; and

(d) Responsibilities.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(e) Regulations.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. AIR QUALITY RESEARCH, FORECASTS AND WARNINGS.

(a) Regional Studies.—The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall, in order of priority as listed in section (c), conduct regional studies of the air quality within specific regions of the United States. Such studies should assess the effects of interstate pollution, identify the transport of emissions from non-Federal sources, and their precursors, transport of such emissions and precursors from outside the region, and production of air pollutants within the region via chemical reactions.

(b) Forecasts and Warnings.—The Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall, in order of priority as listed in section (c), establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.

(c) Definition.—For the purposes of this section, the term ‘‘specific regions of the United States’’ means the following geographical areas:—

(1) the Northeast, composed of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia;

(2) the Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida;

(3) the Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan;

(4) the South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas;

(5) the High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas;

(6) the Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming;

(7) the Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico;

(8) Alaska; and

(9) Hawaii.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for each of fiscal years 2003 through 2006 for each of fiscal years 2003 through 2006 and $9,000,000 for each of fiscal years 2003 through 2006.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for each of fiscal years 2003 through 2006 and $9,000,000 for each of fiscal years 2003 through 2006.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 and $9,000,000 for each of fiscal years 2003 through 2006.

SEC. 1384. DEFINITIONS.

In this subtitle—

(1) the term ‘‘Center’’ means the Coastal Services Center of the National Oceanic and Atmospheric Administration.
SEC. 1404. MERIT REVIEW OF PROPOSALS. Awards of funds authorized under title XII, subtitle A of title XIII, and title XV shall be made only after an independent review of the proposals and determination of the proposals and that such awards have been made by the Department of Energy.

SEC. 1405. EXTERNAL TECHNICAL REVIEW OF DEPARTMENT RESEARCH AND DEVELOPMENT PROGRAMS. (a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—(1) The Secretary shall establish an advisory board to oversee Department research and development programs in each of the following areas— (A) energy efficiency; (B) renewable energy; (C) fossil energy; (D) nuclear energy; and (E) climate change technology, with emphasis on integration, collaboration, and other special features of the cross-cutting technologies supported by the Office of Climate Change Technology.

(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to utilize the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of experts drawn from industry, academia, Federal laboratories, research institutions, or State, local, or tribal governments, as appropriate.

(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually, and may establish, as appropriate, any subcommittees necessary to carry out the purposes set forth in the terms of reference adopted by the board.

SEC. 1406. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS. (a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7122(b)) is amended to read as follows:

"(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) The Under Secretary for Energy and Science shall be appointed from among persons who—

(A) have extensive background in scientific or engineering fields; and

(B) are well-versed in the management of the civilian research and development programs of the Department of Energy.

(3) The Under Secretary for Energy and Science shall—

(A) serve as the Science and Technology Advisor to the Secretary.

(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs.

(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

"(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

"(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department;

(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development programs in order to advise the Secretary on the scientific and technical merit of the proposals for such awards; and

"(G) perform such other duties and functions as the Secretary may from time to time assign.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 209 of the Department of Energy Organization Act (42 U.S.C. 7123) is amended by striking "Under Secretary" and inserting "Secretary." (2) Section 5314 of title 5, United States Code, is amended by striking "Under Secretary" and inserting "Secretary." (3) Section 5315 of title 5, United States Code, is amended by striking "Under Secretary" and inserting "Secretary." (4) Section 5316 of title 5, United States Code, is amended by striking "Under Secretary" and inserting "Secretary." (5) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101) is amended—

(A) by striking "202. Under Secretary of Energy" and inserting "Secretary of Energy";

(B) by striking "202." and inserting "212.

"(6) In section 209(a)(1) of such Act, the reference to "Under Secretary" is amended by striking "shall be appointed by the Secretary, or designee of the Secretary, and who shall perform such duties as the Secretary may from time to time assign" and inserting "shall be appointed by the Secretary, or designee of the Secretary, and who shall perform such duties as the Secretary may from time to time assign.

"(7) In section 213 of such Act, the title "Secretary, or designee of the Secretary, and who shall perform such duties as the Secretary may from time to time assign." is amended by striking "Under Secretary of Energy" and inserting "Secretary of Energy."
that meet the requirements of subsections (d) and (e).

that will make substantive contributions to achieving the goals of the project;

that the project focuses on the development of technology-related business concerns;

which a party other than the Department, a National Laboratory or single-purpose research facility, to establish a program to provide support to the small business concerns.

procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

that the project will not exceed $10,000 per instance of non-Federal sources to a project, if the expenses meet other requirements of this section.

shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary.

The term “technology-related business concern” means a for-profit corporation, company, association, firm, partnership, or small business concern that—

shall be credited toward the costs paid by the non-Federal sources to the project.

shall be provided from non-Federal sources.

shall not exceed $10,000 per instance of non-Federal sources to a project, if the expenses meet other requirements of this section.

shall be provided from non-Federal sources.

consists of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices;

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer at the Department.

may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

shall be made available under this section for—

will make substantive contributions to the nature and amount of the financial and other resources that will support departmental missions at the participating National Laboratory or single-purpose research facility.

shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary.

shall be provided from non-Federal sources.

shall not exceed $10,000 per instance of non-Federal sources to a project, if the expenses meet other requirements of this section.

shall be credited toward the costs paid by the non-Federal sources to the project.

shall be provided from non-Federal sources.

shall not exceed $10,000 per instance of non-Federal sources to a project, if the expenses meet other requirements of this section.

shall be provided from non-Federal sources.

shall not exceed $10,000 per instance of non-Federal sources to a project, if the expenses meet other requirements of this section.

shall be credited toward the costs paid by the non-Federal sources to the project.
(d) **Definitions.—In this section:**

(1) **Small Business Concern.—The term “small business concern” has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).

(2) **Socially and Economically Disadvantaged Small Business Concerns.—The term “socially and economically disadvantaged small business concerns” has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).

**SEC. 1410. OTHER TRANSACTIONS.**

(a) **Authority.—Section 666 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following section:

"(15 U.S.C. 632)."

such term in section 3 of the Small Business Act

(b) **Other Transactions Authority.—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 552(b)(4) of title 5, United States Code, as developed pursuant to a transaction under paragraph (1)."

(c) **Other Transactions Authority.—(2) In general.—The Secretary, acting through the Technology Partnership Group and in consultation with representatives of affected industries, universities, and small business concerns, shall:

(1) assess the readiness for technology transfer of energy technologies developed through projects funded from appropriations authorized under subtitles A through D of title XIV, and

(2) identify barriers to technology transfer and cooperative agreements and development agreements between the Department and a National Laboratory and a non-Federal person; and

(3) make recommendations for administrative or legislative actions needed to reduce or eliminate such barriers.

**SEC. 1411. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.**

(a) **Finding.—Congress finds that the economic and energy security of the United States and Mexico is furthered through collaboration between the United States and Mexico on energy research related to energy technologies.

(b) **Program.—(1) In general.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall establish a collaborative research, development, and deployment program to promote energy efficient, environmentally sound economic development along the United States-Mexico border to:

(A) mitigate hazardous waste;

(B) promote energy efficient materials processing technologies that minimize environmental damage; and

(C) protect the public health.

(2) Consultation.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall consult with the Office of Energy Efficiency and Renewable Energy in carrying out paragraph (1)(B).

(c) **Program Management.—(1) Program under subsection (b) shall be managed by the Department of Energy on behalf of the Environmental Management Field Office.

(2) Cost Sharing.—The cost of any project or activity carried out using funds provided under this section shall be shared as provided in section 1403.

(d) **Technology Transfer.—In carrying out projects and activities under this section to mitigate hazardous waste, the Secretary shall emphasize the transfer of technology developed under the Environmental Management Science Program of the Department of Energy.

(e) **Intellectual Property.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered between the United States and Mexico regarding intellectual property protection.

(f) **Authorization of Appropriations.—There are authorized to be appropriated to carry out this section fiscal year 2002 and $6,000,000 for each of fiscal years 2003 through 2006, to remain available until expended.

**TITLE XV—PERSONNEL AND TRAINING**

**SEC. 1501. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.**

(a) **Workforce Trends.—The Secretary of Energy (in this title referred to as the ‘‘Secretary’’), acting through the Administrator of the Energy Information Administration, in consultation with the Administrator of Labor, shall:

(1) monitor and report on the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing energy-efficiency, the oil and gas industry, the electric power generation industry (including the nuclear power industry), the coal industry, and other industrial sectors as the Secretary may deem appropriate.

(2) **Annual Reports.—The Administrator of the Energy Information Administration shall include statistics on energy workforce trends in the annual reports of the Energy Information Administration.

(3) **Special Reports.—The Secretary shall report to the Congress every 2 years after the enactment of this title, and at such other times as the Secretary determines, on significant workforce trends, skills shortages in energy industries.

(b) **Traineehip Grants for Technically Skilled Personnel.—(1) The Secretary shall establish grants programs for the following:

(A) an institution of higher education;

(B) a postsecondary educational institution providing vocational and technical education (as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2902));

(C) appropriate agencies of State, local, or tribal governments; or

(D) joint labor and management training organizations with State or federally recognized apprenticeship programs and other education-based training organizations as the Secretary considers appropriate.

(2) **Definition.—For purposes of this section, the term ‘‘skilled technical personnel’’ means: journey and apprentice level workers that are employed in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.

(3) **Authorization of Appropriations.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.

**SEC. 1502. POSTDOCTORAL AND SENIOR RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.**

(a) **Postdoctoral Fellowships.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of their choosing.

(b) **Distinguished Senior Research Fellowships.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers to pursue research and development topics of their choosing.

(c) **Authorization of Appropriations.—(1) There are authorized to be appropriated to carry out this section fiscal year 2002 and $6,000,000 for each of fiscal years 2003 through 2006, to remain available until expended.

**TITLE XV—PERSONNEL AND TRAINING**

**SEC. 1504. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.**

(a) **Workforce Trends.—"
Secretary for activities under this section such sums as may be necessary for each fiscal year.

SEC. 1503. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) DESIGN. — The term ‘historically Black college or university’ has the meaning given the term ‘historically Black college or university’ in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1061(a)).

(b) DEFINITIONS. — In this section:

(1) HISPANIC-SERVING INSTITUTION. — The term ‘hispanic-serving institution’ has the meaning given the term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061(a)).

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY. — The term ‘historically Black college or university’ has the meaning given the term ‘historically black college or university’ in section 1401(a).

(3) NATIONAL LABORATORY. — The term ‘national laboratory’ has the meaning given the term in section 1203 of the Energy Science and Technology Enhancement Act of 2002.

(4) SCIENCE FACILITY. — The term ‘science facility’ has the meaning given the term ‘science research facility’ in section 502(a) of the Energy Science and Technology Enhancement Act of 2002.

(5) TRIBAL COLLEGE. — The term ‘tribal college’ has the meaning given the term ‘tribally controlled college or university’ in section 202(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

(b) CONTENT OF GUIDELINES. — The guidelines under this section shall include:

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1504. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall establish a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and the reduction of energy use in industrial, commercial and residential buildings. The National Center shall be established in cooperation with—

(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;

(2) contractors that install and maintain heating, ventilation and air-conditioning systems and equipment;

(3) manufacturers of heating, ventilation and air-conditioning systems and equipment;

(4) the advanced building envelope industry, including design, windows, lighting, and insulation industries; and

(5) other entities as appropriate.

SEC. 1505. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS. — Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

(2) programs for women and minority students. — In carrying out a program under subsection (a), the Secretary shall give priority to activities designed to encourage women and minority students to pursue scientific and technical careers.

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES. — The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3167 and 3169, respectively; and

(2) by inserting after section 3166 the following:

SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

(a) DEFINITIONS. — In this section:

(1) HISPANIC-SERVING INSTITUTION. — The term ‘hispanic-serving institution’ has the meaning given the term ‘hispanic-serving institution’ in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1061(a)).

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY. —The term ‘historically Black college or university’ has the meaning given the term ‘historically black college or university’ in section 1401 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(3) NATIONAL LABORATORY. — The term ‘national laboratory’ has the meaning given the term in section 1203 of the Energy Science and Technology Enhancement Act of 2002.

(4) SCIENCE FACILITY. — The term ‘science facility’ has the meaning given the term ‘science research facility’ in section 502(a) of the Energy Science and Technology Enhancement Act of 2002.

(b) CONTENT OF GUIDELINES. — The guidelines under this section shall include —

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

SEC. 1506. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT. — The Secretary shall establish a National Power Plant Operations Technology and Education Center to address the need for training and educating certified operators for electric power generation plants.

(b) ROLE. — The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION. — The Secretary shall establish the Center at an institution of higher education with expertise in plant technology and operation and that can provide on-site as well as Internet-based training.

SEC. 1507. FEDERAL MINE INSPECTORS.

The Secretary may direct the head of any science facility, to the extent practicable, experts selected in coordination with the National Research Council.

SEC. 704. INITIATION OF ACTIVITIES.

(a) NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.

The Service shall consist of a Science and Technology Board (hereinafter referred to as the ‘Board’) which shall formulate and promulgate the policies of the Service, and a Director who shall be responsible to the Board for the operations of the Service.

(b) NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.

The Service shall coordinate and develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. In developing such technical assessments for Congress, the Service shall, to the extent practicable, experts selected in coordination with the National Research Council.

(c) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

The Board shall consist of 13 members as follows—

(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;

(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and

(3) the Director, who shall not be a voting member.

(d) REPORT TO CONGRESS.

The Service shall submit to the Congress an annual report which shall include, but not be
limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. The annual report shall be submitted not later than March 15 of each year.

"SEC. 709. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Service such sums as are necessary to fulfill the requirements of this title.

TITLE XVII—STUDIES

SEC. 1701. REGULATORY REVIEWS.

(a) REGULATORY REVIEWS.—Not later than 1 year after the date of enactment of this section and every 5 years thereafter, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to—

(A) market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, and small-scale renewable energy), and

(B) market development and expansion for existing energy technologies (including combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies and to market expansion for existing technologies, 

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental needs;

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every 5 years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) further development and expansion of existing energy conservation technologies and processes,

(2) actions taken, or proposed to be taken, to remove such barriers,

(3) recommendations for changes in laws or regulations that may be needed to—

(A) expedite the siting and development of energy infrastructure facilities,

(B) encourage the adoption of energy efficiency and process improvements,

(C) facilitate the expanded use of existing energy conservation technologies, and

(D) reduce the environmental impacts of energy facilities and processes through transparent and flexible compliance methods.

SEC. 1702. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) resources; 

(B) environmental, operational, and safety considerations; 

(c) the availability of technology; 

(D) effects on the utility system, including reliability;

(E) infrastructure and transport requirements; 

(F) costs; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil used for power generation, including wind, geothermal, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, the economic impact of such displacement on the relationship described in paragraph (2); and

(5) the environmental risks and benefits of building and operating each alternative;

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in part, through one or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing the findings, conclusions, and recommendations resulting from the assessment.

SEC. 1703. STUDY OF SITING AN ELECTRIC TRANSMISSION SYSTEM ON AMTRAK RIGHT-OF-WAY.

(a) STUDY.—The Secretary of Energy shall conduct a study to determine whether siting an electric transmission system on the Northeast Corridor is feasible, and to conduct a study of the feasibility of building and operating a new electric transmission system on the Amtrak right-of-way in the Northeast Corridor.

(b) SCOPE.—The study shall focus on siting the new system on the Northeast Corridor between Washington, D.C., and New Rochelle, New York, including the Amtrak right-of-way between Philadelphia, Pennsylvania and Harrisburg, Pennsylvania.

(c) CONTENTS OF THE STUDY.—The study shall consider—

(1) alternative geographic configurations of a new electric transmission system on the Amtrak right-of-way in the Northeast Corridor;

(2) alternative technologies for the system;

(3) the estimated costs of building and operating each alternative;

(4) alternative means of financing the system;

(5) the environmental risks and benefits of building and operating each alternative as well as environmental risks and benefits of building and operating the system on the Northeast Corridor rather than at other locations;

(6) engineering and technological obstacles to building and operating each alternative; and

(7) any other factors that would enhance the reliability of the electric transmission grid and enhance competition in the sale of electric energy at wholesale within the Northeast Corridor.

(d) RECOMMENDATIONS.—The study shall recommend the optimal geographic configuration, the optimal technology, the optimal engineering design, and the optimal means of financing for the new system from among the alternatives considered.

SEC. 1704. AUTHORIZATION OF INSULAR AREA RENEWABLE ENERGY AND ENERGY EFFICIENCY PLANS.

SECTION 604 of Public Law 96–597 (48 U.S.C. 1402) is amended—

(1) in subsection (a) at the end of paragraph (4) by striking "resources," and inserting "resources; and"

(2) by adding at the end of subsection (b) the following: "Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Congress a report containing information on a renewable energy plan for an area within the United States that has been appointed and shall select a Chairperson and Vice Chairperson from among the members of the Commission.

SEC. 1705. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Consumer Energy Commission":

(b) MEMBERSHIP.—

(1) In GENERAL.—The Commission shall be comprised of 11 members appointed within 30 days from the date of enactment of this section, and which shall serve for a term of 4 years, and shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The Majority Leader and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint 2 members—

(A) one of whom shall represent consumer groups focusing on energy issues; and

(B) one of whom shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint three members—

(A) one of whom shall represent consumer groups focusing on energy issues; and

(B) one of whom shall represent the energy industry; and

(C) one of whom shall represent the Department of Energy.

(c) INITIAL MEETING.—Not later than 60 days after the date of enactment of this Act, the Commission shall hold the first meeting of the Commission.

(d) ADMINISTRATIVE EXPENSES.—Members of the Commission shall serve without compensation, except for per diem and travel expenses.
which shall be reimbursed, and the Department of Energy shall pay expenses as necessary to carry out this section, with the expenses not to exceed $400,000.

(c) STUDY.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane with a focus on their causes including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, and the price variance across geographic areas.

(d) REPORT.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—

(1) selects such a route for a specific shipment of such spent nuclear fuel; and

(2) conducts assessments of the risks associated with shipments of such spent nuclear fuel along such a route.

(e) DEADLINE.—The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of this subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from nuclear reactors through densely populated areas.

(2) Current traffic and accident data with respect to the routes under consideration.

(3) The quality of the roads comprising the routes under consideration.

(f) REPORT.—The National Academy of Sciences shall submit to Congress a report on the results of the study required by subsection (a) not later than 30 days after the date of enactment of this Act.

(g) STUDY.—The Secretary of Energy shall conduct a study of opportunities to reduce energy infrastructure, including the following:

(1) be undertaken in consultation with industry, best practices for critical energy infrastructure, and other interested parties;

(2) the Committee on Energy and Commerce of the House of Representatives.

(h) SUBMISSION OF REPORT.—In conducting the study under subsection (a), the National Academy of Sciences shall submit to Congress a report on any resulting recommendations required by subsection (d).

(i) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

(j) REPORT ON RESULTS OF STUDY.—Not later than 6 months after the date of the dispersal of funds under subsection (e), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under subsection (d) including the recommendations required by subsection (d).

(k) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(l) the Committee on Energy and Commerce of the House of Representatives.

SEC. 1708. REPORT ON ENERGY SAVINGS AND WATER USE.

(a) REPORT.—The Secretary of Energy shall submit a report to Congress that identifies energy infrastructure, including water pumps, motors, and delivery systems; purification, conveyance and distribution, upgrade of aging water infrastructure, and improved methods for leak- age monitoring, measuring, and reporting; and
critical energy infrastructure, and other interested parties; and

(3) the Committee on Energy and Commerce of the House of Representatives.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for programs or projects to implement strategies and cost estimates of costs and resource savings, no later than 2 years after the date of enactment of this section.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1709. REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production, or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs

SEC. 1801. DEFINITIONS.

In this title:

(1) CRITICAL ENERGY INFRASTRUCTURE.—

(A) IN GENERAL.—The term “critical energy infrastructure” means a physical or cyber-based system or service for—

(i) the generation, transmission or distribution of electric energy; or

(ii) the production, refining, or storage of petroleum, natural gas, or gas product—

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure proposed to be constructed across the Great Lakes ecosystem.

(b) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

SEC. 1707. NATIONAL ACADEMY OF SCIENCES

(a) IN GENERAL.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences to conduct a study of the procedures by which the Department of Energy and other Federal and State agencies as appropriate.

(b) REQUIREMENTS.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—

(E) DATA BASE.—Under this section the term “data base” means—

The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of this subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from nuclear reactors through densely populated areas.

(2) Current traffic and accident data with respect to the routes under consideration.

(3) The quality of the roads comprising the routes under consideration.

(4) Emergency response capabilities along the routes under consideration.

(5) The proximity of the routes under consideration to places or venues (including sports stadiums, convention centers, concert halls and theaters, and other venues) where large numbers of people gather.

(6) RECOMMENDATIONS.—In conducting the study under subsection (a), the National Academy of Sciences shall also make such recommendations regarding the matters studied as the National Academy of Sciences considers appropriate.

SEC. 1708. REPORT ON ENERGY SAVINGS AND WATER USE.

(a) REPORT.—The Secretary of Energy shall conduct a study of opportunities to reduce energy infrastructure, including water pumps, motors, and delivery systems; purification, conveyance and distribution, upgrade of aging water infrastructure, and improved methods for leakage monitoring, measuring, and reporting; and
critical energy infrastructure, and other interested parties; and

(3) the Committee on Energy and Commerce of the House of Representatives.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for programs or projects to implement strategies and cost estimates of costs and resource savings, no later than 2 years after the date of enactment of this section.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1709. REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production, or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE

Subtitle A—Department of Energy Programs

SEC. 1801. DEFINITIONS.

In this title:

(1) CRITICAL ENERGY INFRASTRUCTURE.—

(A) IN GENERAL.—The term “critical energy infrastructure” means a physical or cyber-based system or service for—

(i) the generation, transmission or distribution of electric energy; or

(ii) the production, refining, or storage of petroleum, natural gas, or gas product—

The incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States.

(B) EXCLUSION.—The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under title 10 or title 16 of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2314(b)).

(2) DEPARTMENT; NATIONAL LABORATORY; SEC- RETY.—The terms “Department,” “National Laboratory,” and “Secretary” have the meaning given such terms in section 1203.

SEC. 1802. ROLE OF THE DEPARTMENT OF EN- RGY.

Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended by adding at the end the following:

"(20) To ensure the safety, reliability, and security of the Nation’s energy infrastructure, and to respond to any threat to or disruption of such infrastructure, through activities including—"

"(A) research and development;"

"(B) financial assistance, technical assistance, and cooperative activities with States, industry, and other interested parties; and"

"(C) education and public outreach activities."
(b) Balanced Membership.—The Secretary shall ensure that the advisory committee established or utilized under subsection (a) has a membership with an appropriate balance among the various interests related to energy infrastructure security, including—
(1) scientific and technical experts; (2) industrial managers; (3) non-Federal energy infrastructure security officials; (4) insurance companies or organizations; (5) environmental organizations; (6) representatives of State, local, and tribal governments; and (7) such other interests as the Secretary may deem appropriate.
(c) Expenses.—Members of the advisory committee established or utilized under subsection (a) shall serve without compensation, and shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.

SEC. 1805. BEST PRACTICES AND STANDARDS FOR ENERGY INFRASTRUCTURE SECURITY

The Secretary, in consultation with the advisory committee under section 1804, shall enter into appropriate arrangements with one or more standards-setting organizations, or similar organizations, to assist the development of industry best practices and standards for security related to protecting critical energy infrastructure.

Subtitle B—Department of the Interior Programs

SEC. 1811. OUTER CONTINENTAL SHELF ENERGY INFRASTRUCTURE SECURITY

(a) Definitions.—In this section:
(1) Approved State Plan.—The term ‘approved State plan’ means a State plan approved by the Secretary under subsection (c)(3).
(2) Coastline.—The term ‘coastline’ has the same meaning as the term ‘coast line’ as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1301(c)).
(3) Critical OCS Energy Infrastructure Facility.—The term ‘critical OCS energy infrastructure facility’ means—
(A) a facility located in an OCS Production State or in the waters of such State related to the production of oil or gas on the Outer Continental Shelf; or
(B) a related facility located in an OCS Production State or in the waters of such State that carries, processes, transports, or stores energy infrastructure activity critical to the operation of an Outer Continental Shelf energy infrastructure facility, as determined by the Secretary.
(4) Distance.—The term ‘distance’ means the minimum great circle distance, measured in statute miles.
(5) Leased Tract.—(A) In General.—The term ‘leased tract’ means a tract that—
(i) is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335, 1337) for the purpose of drilling for, developing, and producing oil or natural gas resources; and
(ii) consists of a block, a portion of a block, a combination of blocks or portions of blocks, or a combination of portions of blocks, as—
(I) specified in the lease; and
(II) depicted on an Outer Continental Shelf official projection diagram.
(B) Exclusion.—The term ‘leased tract’ does not include a tract described in subparagraph (A) that is located in a geographic area subject to a leasing moratorium on January 1, 2001, unless the lease was in production on that date.
(6) OCS Political Subdivision.—The term ‘OCS Political Subdivision’ means a county, parish, or any other political subdivision of an OCS Production State all or part of which subdivision lies within the coastal zone as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)).
(7) OCS Production State.—The term ‘OCS Production State’ means the State of—
(A) Alaska; (B) Alabama; (C) California; (D) Florida; (E) Louisiana; (F) Mississippi; or (G) Texas.
(8) Production.—The term ‘production’ has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1311).
(9) Program.—The term ‘Program’ means the Outer Continental Shelf Energy Infrastructure Security Program established under subsection (b).
(10) Qualified Outer Continental Shelf Revenues.—The term ‘qualified Outer Continental Shelf revenues’ means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 statute miles from the nearest point on the coastline of any State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium is in effect as of January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.
(11) Secretary.—The term ‘Secretary’ means the Secretary of the Interior.
(12) State Plan.—The term ‘State plan’ means a State plan described in subsection (b).
(b) Establishment.—The Secretary shall establish a program, to be known as the ‘Outer Continental Shelf Energy Infrastructure Security Program’, under which the Secretary shall provide funds to OCS Production States to implement approved State plans to provide security against hostile and natural threats to critical OCS energy infrastructure facilities and related public services and transportation activities that are needed to maintain the safety and operation of critical energy infrastructure activities. For purposes of this program, requirements of any coastal landfill shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.
(c) State Plans.—(1) Initial Plan.—Not later than 180 days after the date of enactment of this Act, to be eligible to receive funds under the program, the Governor of an OCS Production State shall submit to the Secretary a plan to provide security against hostile and natural threats to critical OCS energy infrastructure facilities of the OCS Production State and to support any of the necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure activities. For purposes of this program, requirements of any coastal landfill shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.
(2) Programs.—(A) Initial Plan.—The Secretary shall approve a plan submitted under paragraph (1) if the Secretary determines that the plan meets the requirements of this section and if the plan includes—
(I) a description of the State of the current security of the relevant energy infrastructure; and
(II) a description of the State of the anticipated security of the relevant energy infrastructure.
(B) Amendments.—(i) In General.—The Secretary shall have the authority to request and act for the State in dealing with the Secretary for purposes of this section.
(ii) Plan Amendments.—The Secretary may approve plan amendments under paragraph (1) if the Secretary determines that the amended plan meets the requirements of this section and if the amended plan includes—
(I) a description of the State of the current security of the relevant energy infrastructure; and
(II) a description of the State of the anticipated security of the relevant energy infrastructure.
(3) Financial Assistance.—(A) Initial Plan.—If the Secretary determines that the initial plan meets the requirements of this section, the Secretary shall—
(i) approve the initial plan; and
(ii) submit the initial plan to Congress for approval.
(B) Subsequent Plans.—(i) In General.—If the Secretary determines that a subsequent plan meets the requirements of this section, the Secretary shall—
(I) approve the subsequent plan; and
(II) submit the subsequent plan to Congress for approval.
(C) Special Assistance.—If the Secretary determines that a plan submitted for approval under this section does not meet the requirements of this section, the Secretary may provide special assistance to the State. Such assistance shall be approved by the Secretary and provided in accordance with laws relating to restoration activities.
(d) Measures for taking into account other Relevant Federal programs and grants.
(2) Annual Reviews.—Not later than 1 year after the date of submission of the plan and annually thereafter, the Governor of an OCS Production State shall—
(1) review the approved State plan; and
(2) submit to the Secretary any revised State plan resulting from the review.
(3) Approval of Plans.—(A) General.—In consultation with appropriate Federal security officials and Secretaries of Commerce and Energy, the Secretary shall—
(I) approve each State plan; and
(II) recommend changes to any State plan.
(B) Resubmission of State Plans.—If the Secretary recommends changes to a State plan under subparagraph (A)(ii), the Governor of the OCS Production State shall resubmit a revised State plan to the Secretary for approval.
(4) Availability of Plans.—The Secretary shall provide to Congress a copy of each approved State plan.
(e) Consultation and Public Comment.—(A) Consultation.—The Governor of an OCS Production State shall develop the State plan in consultation with Federal, State, and local law enforcement and public safety officials, industries, Indian tribes, the scientific community, and other persons as appropriate.
(B) Public Comment.—The Governor of an OCS Production State may solicit public comments on the State plan to the extent that the Governor determines appropriate.
(f) Allocation of Amounts by the Secretary.—The Secretary shall allocate the amounts made available for the purposes of carrying out the program provided for by this section among OCS Production States as follows:
(1) twenty-five percent of the amounts shall be divided equally among OCS Production States;
(2) twenty-five percent shall be divided among OCS Production States on the basis of the proximity of each OCS Production State to offshore locations at which oil and gas are being produced.
(g) Calculation.—The amount for each OCS Production State under paragraph (d)(2) shall be calculated based on the ratio of qualified OCS revenues generated off the coastline of the OCS Production State to the qualified OCS revenues generated off the coastline of all OCS Production States for the prior 5-year period. Where there are more than one OCS Production State within 200 miles of a leased tract, the amount of each OCS Production State’s payment under paragraph (d)(2) for any particular tract shall be in proportion to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary. A leased tract or portion of a leased tract shall be excluded if the tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of such moratorium and was in production on January 1, 2001.
(h) Payments to OCS Political Subdivisions.—Thirty-five percent of each OCS Production State’s allowable share as determined under subsection (e) shall be paid directly to the OCS political subdivisions by the Secretary based on the following formula:
(1) Twenty-five percent shall be based on the ratio of such OCS political subdivision’s population to the population of all OCS political subdivisions in the OCS Production State.
(2) Twenty-five percent shall be based on the ratio of such OCS political subdivision’s coastline miles to the coastline miles of all OCS political subdivisions in the OCS Production State. For purposes of this subsection, such OCS political subdivisions without coastlines...
shall be considered to have a coastline that is the average length of the coastlines of all political subdivisions in the State. 

(3) Fifty percent shall be allocated based on the relative square mileage of such OCS political subdivision from any leased tracts used to calculate that OCS Production State's allocation using ratios that are inversely proportional to the distance from the geographic center of each leased tract or portion, as determined by the Secretary. For purposes of the calculations under this subsection, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect at the time the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001. 

(g) Failure To Have Plan Approved.—Any amount allocated to an OCS Production State or OCS political subdivision but not disbursed because of a failure to have an approved Plan under this section shall be allocated equally by the Secretary among all other OCS Production States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the use of the funds. 

(h) Compliance With Authorized Uses.—If the Secretary determines that any expenditure made by an OCS Production State or an OCS political subdivision is not consistent with the uses authorized under subsection (d), the Secretary shall not disburse any further amounts under this section to that OCS Production State or OCS political subdivision until the amounts used for inconsistent expenditure have been repaid or obligated for authorized uses. 

(i) Rulemaking.—The Secretary may promulgate such rules and regulations as may be necessary to carry out the purposes of this section, including rules and regulations setting forth an appropriate process for appeals. 

(3) Authorization of Appropriations.—There are hereby appropriated $450,000,000 for each of the fiscal years through 2008 to carry out the purposes of this section.

DIVISION H—ENERGY TAX INCENTIVES

SECTION 1900. SHORT TITLE, ETC.

(a) Short Title.—This division may be cited as the “Energy Tax Incentives Act of 2002”.

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or section number, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDITS

SEC. 1901. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) In General.—(A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are amended by striking “January 1, 2004” and inserting “January 1, 2007”.

(b) Effective Date.—The amendments made by this section shall be applied to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) Extension and Modification of Place-in-Service Rules.—(Paraphagraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

(B) CLOSED-LOOP BIOMASS FACILITY.—

(i) In General.—In the case of a facility using closed-loop biomass to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

(ii) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal before January 1, 2007, as applicable under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63802.

(c) Coordination With Section 29.—(1) The term ‘qualified facility’ for purposes of this section shall apply to electricity sold after the date of the enactment of this Act, the amendments made by this section to subparagraph (C) and inserting after paragraph (2), the amendments made by this section before January 1, 2005.

(2) Special Rules.—In the case of a qualified facility described in clause (i)(II)—

(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

(II) if the owner of such facility is not the producer of the electricity, the person eligible to claim the credit under subsection (d)(2)(B) (a) is the lessee or the operator of such facility, and

(b) by adding at the end the following new subparagraph:

(D) Biomass (other than closed-loop biomass).

(b) Biomass Defined.—Section 45(c)(relating to definitions) is amended by adding at the end the following new paragraph:

(Biomass.—The term ‘biomass’ means any solid, liquid, gaseous, or other waste material which is segregated from other waste materials and which is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

(B) solid wood waste materials, including wood pallets, crates, woodchips, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape and right-of-way wood debris,

(C) feedstocks from urban and agricultural sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues,

(D) Coordination With Section 29.—(1) The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, the amendments made by this section to subparagraph (C) and inserting after paragraph (2), the amendments made by this section before January 1, 2005.

(2) Special Rules.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

(c) Coordination With Section 29.—(1) The term ‘qualified facility’ for purposes of this section shall apply to electricity sold after the date of the enactment of this Act, the amendments made by this section to subparagraph (C) and inserting after paragraph (2), the amendments made by this section before January 1, 2005.

(d) Special Rule for Post Effective Date Facilities.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A).

(e) Credit Eligibility.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2002, or

(f) Definitions.—Section 45(c)(relating to definitions and special rules), as amended by this section, is amended by striking “as defined in section 45(c)(3)(D)(i)” of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after December 31, 2005.

SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE, BIOMASS, THERMAL ENERGY, AND SOLAR ENERGY.

(a) Expansion of Qualified Energy Resources.—

(1) In General.—Section 45(c)(4) (defining qualified energy resources) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

(d) as paragraph (b) and by inserting after paragraph (d) the following new subparagraph:

(b) Definition of Biomass.—

(1) In General.—Section 45(c)(4) (defining qualified energy resources) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting “, and”, and

(C) by adding at the end the following new subparagraph:

(b) Biomass (other than closed-loop biomass).
The term ‘swine and bovine waste nutrients’ means swine and bovine manure and litter, including bedding material for the disposition of manure.

(7) Geothermal energy.—The term ‘geothermal energy’ means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

(b) Extension and Modification of Placed-in-Service Rules.—Section 45(c)(3) (relating to qualified facility) is amended by adding at the end the following new subparagraphs:

(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—If a facility using swine and bovine waste nutrients to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

(F) Geothermal or Solar Energy Facility.—

(i) In General.—In the case of a facility using geothermal or solar energy to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

(ii) Special Rule.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service after the date of the enactment of this clause shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

(d) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In General.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

(8) RECYCLED SLUDGE.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

(H) RECYCLED SLUDGE FACILITY.—

(i) In General.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

(ii) Special Rule.—In the case of a facility using municipal biosolids to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

(iii) Definitions.—Section 45(c), as amended by this Act, is amended by redesignating paragraphs (8) and (9) as paragraphs (9) and (10) and by inserting at the end the following new paragraph:

(10) RECIPROCITY.—The term ‘recycling’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.

(e) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) In General.—Section 45(c)(1) (defining qualified facility) of such section, as amended by this Act, is amended by striking ‘‘and’’ at the end of subparagraph (F), by striking the period at the end of subparagraph (H), by striking subparagraph (I) and inserting ‘‘, and’’, and by adding at the end the following new subparagraph:

(11) small irrigation power.

(b) Qualified Facility.—Section 45(c)(2) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

(11) small irrigation power.

(c) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1906. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) In General.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ‘‘and’’ at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ‘‘, and’’, and by adding at the end the following new subparagraphs:

(H) municipal biosolids, and

(i) recycled sludge.

(b) Municipal Biosolids Facility.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

(G) MUNICIPAL BIOSOLIDS FACILITY.

(H) RECYCLED SLUDGE.

(I) In General.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

(i) Special Rule.—In the case of a facility using municipal biosolids to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

(iii) Definitions.—Section 45(c), as amended by this Act, is amended by redesignating paragraphs (8) and (9) as paragraphs (9) and (10) and by inserting at the end the following new paragraph:

(10) RECIPROCITY.—The term ‘recycling’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.

(e) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XX—ALTERNATIVE MOTOR VEHICLE INCENTIVES

SEC. 301. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credits), as amended by this Act, is amended by adding at the end the following new section:

(b) New Qualified Fuel Cell Motor Vehicle Credit.

(c) Effective Date.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under subsection (b).

(d) Other Provisions.—The new qualified fuel cell motor vehicle credit determined under subsection (b).

(e) Amount of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

(f) Recoupment.—Notwithstanding, for purposes of this section the term ‘recoupment’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.

(g) Effective Date.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.
(C) \$20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and
(D) \$40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

(2) INCREASE FOR FUEL EFFICIENCY.—

(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

(i) \$1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,
(ii) \$1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,
(iii) \$2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,
(iv) \$2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,
(v) \$3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,
(vi) \$3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and
(vii) \$4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—

For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

<table>
<thead>
<tr>
<th>Vehicle Inertia Weight Class</th>
<th>City Fuel Economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 lbs or less</td>
<td>30.7 mpg</td>
</tr>
<tr>
<td>2,000 lbs</td>
<td>31.7 mpg</td>
</tr>
<tr>
<td>2,500 lbs</td>
<td>32.7 mpg</td>
</tr>
<tr>
<td>3,000 lbs</td>
<td>33.7 mpg</td>
</tr>
<tr>
<td>3,500 lbs</td>
<td>34.7 mpg</td>
</tr>
<tr>
<td>4,000 lbs</td>
<td>35.7 mpg</td>
</tr>
<tr>
<td>4,500 lbs</td>
<td>36.7 mpg</td>
</tr>
<tr>
<td>5,000 lbs</td>
<td>37.7 mpg</td>
</tr>
<tr>
<td>5,500 lbs</td>
<td>38.7 mpg</td>
</tr>
<tr>
<td>6,000 lbs</td>
<td>39.7 mpg</td>
</tr>
<tr>
<td>6,500 lbs</td>
<td>40.7 mpg</td>
</tr>
<tr>
<td>7,000 to 8,500 lbs</td>
<td>41.7 mpg</td>
</tr>
</tbody>
</table>

(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—

For purposes of this paragraph, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,
(B) which, in the case of a passenger automobile or light truck—

(i) for 2002 and later model year vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 242(e)(2) of the Clean Air Act for that make and model year, and
(ii) for 2004 and later model years, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 203 of the Clean Air Act for that make and model year vehicle,
(C) the original use of which commences with the taxpayer,
(D) which is acquired for use or lease by the taxpayer and not for resale, and
(E) which is made by a manufacturer.

(4) QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit amount determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

(2) CREDIT AMOUNT.—(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

<table>
<thead>
<tr>
<th>Year</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>$1,000</td>
</tr>
<tr>
<td>2002</td>
<td>$1,500</td>
</tr>
<tr>
<td>2003</td>
<td>$2,000</td>
</tr>
<tr>
<td>2004</td>
<td>$2,500</td>
</tr>
</tbody>
</table>

(B) INCREASE FOR FUEL EFFICIENCY.—(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

(ii) \$150, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,
(iii) \$1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The credit amount determined under subparagraph (A)(i) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

<table>
<thead>
<tr>
<th>Year</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>$1,000</td>
</tr>
<tr>
<td>2002</td>
<td>$1,500</td>
</tr>
<tr>
<td>2003</td>
<td>$2,000</td>
</tr>
</tbody>
</table>

(D) DEFINITIONS.—

(1) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion engine which is determined to conform to emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy-duty engines, and for 2008 and later model year Otto-cycle heavy-duty engines, as applicable.

(2) HEAVY DUTY MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty vehicle weight rating' means—

(III) \$3,000, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and
(VI) \$3,000, if such vehicle achieves at least 225 percent of the 2000 model year city fuel economy.

(II) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

(III) \$1,000, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy, and
(V) \$2,000, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and
(VI) \$3,000, if such vehicle achieves at least 225 percent of the 2000 model year city fuel economy.

(3) NEW-QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit amount determined under this subsection with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:
duty hybrid motor vehicle’ means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following robust sources of stored energy:

(I) An internal combustion or heat engine using consumable fuel for which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of this subtitle, the basis of any property for which a credit is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under subchapter Q of chapter I of title 40, Code of Federal Regulations, for that make and model year vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

(A) $5,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds; and

(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 25,000 pounds; and

(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection:

(A) In general.—The term ‘qualified alternative fuel motor vehicle’ means any motor vehicle—

(i) which is only capable of operating on an alternative fuel,

(ii) the original use of which commences with the taxpayer,

(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

(iv) which is made by a manufacturer.

(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means—

(i) a fuel which is a vehicle fuel

(ii) the original use of which commences with the taxpayer,

(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

(iv) which is made by a manufacturer.

(5) CREDIT FOR MIXED-FUEL VEHICLES.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle and

(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such incremental cost; and

(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowable under subsection (a) for any vehicle which is acquired by an entity exempt from tax under subchapter Q of chapter I of title 40, Code of Federal Regulations, for that make and model year vehicle.

(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person who sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of sale the specific amount of any credit otherwise allowable to the entity dependent on such disclosure.

(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapitulating the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapitulation in the case of a lease in place of less than the economic life of a vehicle).

(9) PROPERTY USED OUTSIDE UNITED STATES, ETC.—NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 59(b) or with respect to the portion of the cost of any property taken into account under section 179.

(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have the election apply to such vehicle.

(11) CARRYBACK AND CARRYFORWARD ALLOWED.—
“(A) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the ‘‘unused credit’’), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and as a credit carryforward for each of the 20 taxable years which succeed the unused credit year. 

(B) Rules.—Rules similar to the rules of section 30(b)(5) shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

(12) Interaction with air quality and motor vehicle safety standards.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

(1) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

(2) the motor vehicle safety provisions of sections 508(d) through 510 of title 49, United States Code.

(g) Regulations.—

(1) General.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

(2) Cooperative in prescription of certain regulations.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

(h) Termination.—This section shall not apply to any property purchased after—

(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

(2) in the case of any other property, December 31, 2006.

(i) Conforming amendments.—

(1) Section 30(b)(6)(a) is amended by striking “and” at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting “and”, and, by striking the end of the following new paragraph:

“29 to the extent provided in section 30(b)(5).”

(2) Section 55(c)(2) is amended by inserting “30(b)(7)” after “30(b)(3)”.

(3) Section 605(d)(3) is amended by striking “30(b)(3)” after “30(d)(4)”.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

“Sec. 30B. Alternative motor vehicle credit.”

(e) Effective date.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES. 

(a) Amount of credit.—

(1) In general.—Section 39(a) relating to allowance of credit is amended by striking “10 percent of”. 

(2) Limitation of credit according to type of vehicle.—Section 39(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

“(1) Credit according to type of vehicle.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

(A) The amount of the credit allowed under subsection (a) for a motor vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002, the lesser of—

(i) 10 percent of the manufacturer’s suggested retail price of the vehicle, or

(ii) $1,500.

(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 6,500 pounds—

(i) $3,500, or

(ii) $6,000, if such vehicle is—

(1) capable of a driving range of at least 100 miles on a single charge of the vehicle’s rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to parts 40 and 49 of Code of Federal Regulations, or

(2) capable of a payload capacity of at least 1,000 pounds.

(C) In the case of a vehicle with a gross vehicle weight rating exceeding 6,500 pounds but not exceeding 14,000 pounds, $10,000.

(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 pounds but not exceeding 26,000 pounds, $20,000.

(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.

(2) LEASED VEHICLES.—

(a) Amount of credit. 

(i) Except as provided in paragraph (2), the Secretary shall insert the following new paragraph:

“(A) Section 39(d)(1)(B)(iii) is amended by striking ‘‘section 30(b)(3)(B)’’ and inserting ‘‘section 30(b)(2)(B)’’.

(b) Section 39(c)(2), as amended by this Act, is amended by striking ‘‘30(b)(3)’’ and inserting ‘‘30(b)(2)’’.

(c) QUALIFIED BATTERY ELECTRIC VEHICLE. —

the term ‘‘qualified electric vehicle’’ is amended to read as follows:

‘‘(A) which—

(1) operated solely by use of a battery or battery pack, or

(2) powered primarily through the use of an electric battery or battery pack using a fuel cell or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,’’. 

(2) Retail clean-fuel vehicle refueling property. 

(i) In general.—The term ‘‘residential clean-fuel vehicle refueling property’’ has the same meaning given such term by section 179A(d).

(ii) Year credit allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

(3) Rules. 

(i) With respect to any retail clean-fuel vehicle refueling property, the taxpayer must certify to the Secretary that the property is an eligible property under section 30(d).

(ii) With respect to any residential clean-fuel vehicle refueling property, the taxpayer must certify to the Secretary that the property is an eligible property under section 30(d).

(4) Definitions. 

(i) Qualified clean-fuel vehicle refueling property. —

(ii) Residential clean-fuel vehicle refueling property. —

(iii) Retail clean-fuel vehicle refueling property. —

(iv) With respect to any retail clean-fuel vehicle refueling property, the taxpayer must certify to the Secretary that the property is an eligible property under section 30(d).

(v) With respect to any residential clean-fuel vehicle refueling property, the taxpayer must certify to the Secretary that the property is an eligible property under section 30(d).

(5) Basis reduction.—For purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or credit of specified amount attributable to such cost, such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and as a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

(c) Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under sub-paragraph (A). 

(d) Effective date.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS. 

(a) In general.—

(i) Qualified clean-fuel vehicle refueling property. —

(ii) Year credit allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

(iii) Rules. 

(iv) Definitions. 

(v) Basis reduction.—For purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or credit of specified amount attributable to such cost, such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and as a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

SEC. 2004. CREDIT FOR QUALIFIED RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY. 

(a) In general.—

(i) Year credit allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

(ii) Rules. 

(iii) Definitions. 

(iv) Basis reduction.—For purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or credit of specified amount attributable to such cost, such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and as a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

(b) Year credit allowed.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.
“(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).”

“(B) TREATMENT OF PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under section 501(c)(3), any portion of such property shall be treated as property installed for the entity with respect to which the refueling property is being used in a manner prescribed by the Secretary of the Treasury. Such determination shall be in accordance with the applicable provisions of section 179A(e).”

“(1) Carrierforward allowed.—

“(i) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the ‘unused credit amount’ in this subsection), such excess shall be allowed as a carrierforward for each of the 20 taxable years following the unused credit year.

“(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carrierforward under paragraph (1).

“(3) Table of sections for subpart B of part 39, subchapter C, chapter 1 of subtitle B of title 26 is amended by inserting after the item relating to section 39C(f).

“(b) No double benefit.—

“(1) applicable amount.—The term ‘applicable amount’ means the amount determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable year ending in</th>
<th>The applicable amount is</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>30 cents</td>
</tr>
<tr>
<td>2003</td>
<td>39 cents</td>
</tr>
<tr>
<td>2004</td>
<td>40 cents</td>
</tr>
<tr>
<td>2005</td>
<td>45 cents</td>
</tr>
<tr>
<td>2006</td>
<td>50 cents</td>
</tr>
</tbody>
</table>

“(2) Alternate fuel vehicle.—The term ‘qualified motor vehicle’ means a motor vehicle (as defined in section 39C(f)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(3) Gasoline gallon equivalent.—The term ‘gasoline gallon equivalent’ means, with respect to any alternative fuel (determined by the Secretary) of such fuel having a Btu content of 114,000.

“(4) Qualified motor vehicle.—The term ‘qualified motor vehicle’ means any motor vehicle (as defined in section 39C(f)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(5) Sold at retail.—

“(A) In general.—The term ‘sold at retail’ means the sale of such property other than after manufacture, production, or importation.

“(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel vehicle (as defined in section 39C(f)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

“(c) No double benefit.—

“(1) In general.—The amount of any deduction or credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of any such credit attributable to such fuel.

“(2) Amortization.—The Secretary shall prescribe for purposes of section 179A any appropriate rules and methods for amortization of the applicable amount

“(d) Pass-Through in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 513 shall apply.

“(e) Termination.—This section shall not apply to any oil sold at retail after December 31, 2006.

“(f) Effective date.—The amendments made by this section shall apply to oil sold at retail after December 31, 2006, for taxable years ending after such date.”

“SEC. 2004. CREDIT FOR RETAIL SALE OF ALTERNATIVE FuELS AS MOTOR VEHICLE FUEL.

“(A) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 39C(f) the following new section:

“SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FuELS AS MOTOR VEHICLE FUEL.

“(A) General Rule.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

“(B) Definitions.—For purposes of this section—

“(1) Applicable amount.—The term ‘applicable amount’ means the amount determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Taxable year ending in</th>
<th>The applicable amount is</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>30 cents</td>
</tr>
<tr>
<td>2003</td>
<td>39 cents</td>
</tr>
<tr>
<td>2004</td>
<td>40 cents</td>
</tr>
<tr>
<td>2005</td>
<td>45 cents</td>
</tr>
<tr>
<td>2006</td>
<td>50 cents</td>
</tr>
</tbody>
</table>

“(2) Alternative fuel.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

“(3) Gasoline gallon equivalent.—The term ‘gasoline gallon equivalent’ means, with respect to any alternative fuel (determined by the Secretary) of such fuel having a Btu content of 114,000.

“(4) Qualified motor vehicle.—The term ‘qualified motor vehicle’ means any motor vehicle (as defined in section 39C(f)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

“(5) Sold at retail.—

“(A) In general.—The term ‘sold at retail’ means the sale of such property other than after manufacture, production, or importation.

“(B) Use treated as sale.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel vehicle (as defined in section 39C(f)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

“(c) No double benefit.—

“(1) In general.—The amount of any deduction or credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of any such credit attributable to such fuel.

“(2) Amortization.—The Secretary shall prescribe for purposes of section 179A any appropriate rules and methods for amortization of the applicable amount

“(d) Pass-Through in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 513 shall apply.

“(e) Termination.—This section shall not apply to any oil sold at retail after December 31, 2006.

“(f) Effective date.—The amendments made by this section shall apply to oil sold at retail after December 31, 2006, for taxable years ending after such date.”

“SEC. 2005. SMALL ETHANOL PRODUCER CREDIT.

“(A) Allocation of Alcohol Fuels Credit to Patrons of a Cooperative.—Section 40(g) (relating to alcohol fuels used as fuel) is amended by adding at the end the following new paragraph:

“(B) Allocation of Small Ethanol Producer Credit to Patrons of Cooperative.—

“(A) Election to Allocate.—

“(B) Treatment of Organizations and Patrons.—The amount of the credit apportioned to patrons under subparagraph (A) shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 35.”

“SEC. 2006. IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.

“(A) Definition of Small Ethanol Producer.—Section 40(g) (relating to small ethanol producer credit) is amended by striking ‘36,000,000’ each place it appears and inserting ‘60,000,000’.

“(B) Small Ethanol Producer Credit Not a Pass-Through Activity Credit.—Clause (i) of section 40(g)(2)(A) is amended by striking ‘subpart D’ and inserting ‘subpart D, other than section 40A(3),’.

“(C) Allowing Credit Against Entire Regular Tax and Minimum Tax.—

“(A) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 39B(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (4) the following new paragraph:

“(4) Special Rules for Small Ethanol Producer Credit.—

“(A) In General.—In the case of the small ethanol producer credit—

“(i) this section and section 29 shall be applied separately with respect to the credit, and each subparagraph of subsection (a) and (B) thereof shall be treated as being zero, and

“(ii) the limitation under paragraph (1) (as modified by subsection (a)) shall be reduced by the amount allowed under this section for the taxable year (other than the small ethanol producer credit).
“(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term ‘small ethanol producer credit’ means the credit allowable under subsection (a) by reason of section 40(a)(3).”

“SEC. 4014. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the tax imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethanol tertiary butyl ether to the extent:

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(a) as a credit under section 40, and

“(2) the qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under this section for the taxable year is irrevocable.

“(c) REQUIREMENT.—Any return claiming a credit pursuant to an election under this subsection shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the inclusion of the taxable periods with respect to which the credit may be claimed.

“(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking subparagraphs (E) and (F).”

“SEC. 4008. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) AMOUNT.—The credit allowed under subsection (b) for the taxable year is equal to the biodiesel mixture credit.

“(b) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

“(2) QUALIFIED BIODIESEL MIXTURE.

“(A) IN GENERAL.—The term ‘qualified biodiesel mixture’ means a biodiesel which meets the requirements of section 4081 and not by this chapter.

“(2) REGISTRATION REQUIREMENTS.

“(A) IN GENERAL.—Any person who in any taxable period with respect to which the credit may be claimed.

“(A) IMPOSITION OF TAX.—If—

“(1) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

“(II) separation of such biodiesel from the mixture, or

“(I) the registered biodiesel mixture is biodiesel V and the biodiesel fuels credit determined under this section for the taxable year (determined without regard to any benefit provided with respect to such biodiesel V reasonably by reason of the application of section 4041(i) or section 4041(f).”

“SEC. 4004. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the tax imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent:

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(a) as a credit under section 40, and

“(2) the qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under this section for the taxable year is irrevocable.

“(c) REQUIREMENT.—Any return claiming a credit pursuant to an election under this subsection shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the inclusion of the taxable periods with respect to which the credit may be claimed.

“(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking subparagraphs (E) and (F).”

“SEC. 4014. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the tax imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent:

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(a) as a credit under section 40, and

“(2) the qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under this section for the taxable year is irrevocable.

“(c) REQUIREMENT.—Any return claiming a credit pursuant to an election under this subsection shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the inclusion of the taxable periods with respect to which the credit may be claimed.

“(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking subparagraphs (E) and (F).”

“SEC. 4014. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the tax imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent:

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(a) as a credit under section 40, and

“(2) the qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under this section for the taxable year is irrevocable.

“(c) REQUIREMENT.—Any return claiming a credit pursuant to an election under this subsection shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the inclusion of the taxable periods with respect to which the credit may be claimed.

“(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking subparagraphs (E) and (F).”

“SEC. 4014. CREDIT AGAINST MOTOR FUELS TAXES.

“(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the tax imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent:

“(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(a) as a credit under section 40, and

“(2) the qualified assignee elects to claim such credit under this section.

“(b) ELECTION IRREVOCABLE.—Any election under this section for the taxable year is irrevocable.

“(c) REQUIREMENT.—Any return claiming a credit pursuant to an election under this subsection shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

“(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the inclusion of the taxable periods with respect to which the credit may be claimed.

“(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking subparagraphs (E) and (F).”
“(f) Termination.—This section shall not apply to any fuel sold after December 31, 2005.

(2) Credit treated as part of general business credit.—Section 38(b), as amended by this Act, is amended by inserting “plus” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “,” plus”, and by inserting at the end the following new paragraph: 

“(17) Biodiesel fuel credits determined under section 40B(a).

(3) Conforming amendments.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

“(d) No carryback of biodiesel fuel credits.—No carryback of the unused business credit for any taxable year which is attributable to the biodiesel fuel credits determined under section 40B may be carried back to the taxable year beginning before January 1, 2003.

(B) Section 196(c) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

“(11) the biodiesel fuel credit determined under section 40B(a).

(C) Section 6501(c), as amended by this Act, is amended by inserting “40B,” after “40(f),”.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 40B. Biodiesel used as fuel.”

(4) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) Reduction of motor fuel excise taxes on biodiesel mixtures.—

(1) in general.—Section 40A(1) (relating to tax on petroleum products) is amended by adding at the end the following new section:

“(f) Biodiesel V mixtures.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 40A at a rate not determined under section 40A(f) is used by any person in any biodiesel mixture (as defined in section 40A(b)(2)) with biodiesel V which is sold or used in such person’s trade or business, the Secretary shall pay, (without interest), to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40A(b)(1)(B)) with respect to such biodiesel V used as fuel on which tax was paid.

(2) Effective date.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2003.

(b) Highways trust fund held harmless.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amount determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by (if such vehicle is used in a trade or business) or for the production of income (and is licensed and insured for such use).

(2) Highways vehicle described.—A highways vehicle described in this paragraph if such vehicle is—

(A) designed to engage in the daily collection of refuse or trash from residences or businesses and is equipped with a mechanism under which the vehicle’s propulsion engine provides the power to operate a load compactor;

(B) designed to mix concrete on a daily basis and is equipped with a mechanism under which the vehicle’s propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

(c) Exception for vehicles used by governments, etc.—This section shall not apply to any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

(I) the United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(II) an organization exempt from tax under section 501(a).

(d) Denial of double benefit.—The amount of any deduction under this subtitle for any tax imposed by subsection B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

(e) Termination.—This section shall not apply with respect to any calendar year after 2005.

(b) Credit made part of general business credit.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “,” plus”, and by adding at the end the following new paragraph:

“(24) the commercial power takeoff vehicles credit under section 45N(a).

(c) Clerical amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45N. Commercial power takeoff vehicles credit.”

(d) Regulations.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the expenditure from any carryback under section 40A or 40B of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

(e) Effective date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2010. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) Modification to new qualified hybrid motor vehicle credit.—Section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking “5 percent” and inserting “4 percent”.

(b) Modification to section 45N.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as added by this Act, is amended by striking “Motor vehicle credit” and inserting “Commercial power takeoff vehicles credit.”

(c) Modification to credit for installation of alternative fueling stations.—Subsection (i) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

“(f) Termination.—This section shall not apply to any property placed in service—

(1) in the case of property relating to hydrogen, after December 31, 2011, and

(2) in the case of any other property, after December 31, 2007.

(d) Extension of phaseout.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking “calendar year 2004” in clause (i) and inserting “calendar years 2004 and 2005” (calendar years 2004 through 2009 in the case of property relating to hydrogen); and

(B) by striking “2003” in clause (ii) and inserting “2006” (calendar year 2010 in the case of property relating to hydrogen).

(e) Effective date.—As provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) Modification to credit for installation of alternative fueling stations.—Subsection (i) of section 30C of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

“(f) Termination.—This section shall not apply to any property placed in service—

(1) in the case of property relating to hydrogen, after December 31, 2011, and

(2) in the case of any other property, after December 31, 2007.

(d) Effective date.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

SEC. 2101. CREDIT FOR USE OF NEW ENERGY EFFICIENT HOME.

(a) In general.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:
(c) The first use of which after construction is as a principal residence (within the meaning of section 121).

(4) CONSTRUCTION.—The term ‘construction’ includes all activities necessary or incidental to the production of such homes, including the construction of such home.

(5) BUILDING ENVELOPE COMPONENT.—The building envelope component means—

(A) any insulation material or system which is specifically designed and installed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

(B) exterior windows (including skylights) and doors.

(6) MANUFACTURED HOME INCLUDED.—The term qualifying new home includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

(d) CERTIFICATION.—(1) METICULOUS CERTIFICATION.—

(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications for energy performance to properties that qualify for the credit. Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be determined by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (PIA), or a home energy rating organization, or in the case of a performance-based method, an individual identified by an organization designated by the Secretary for such purposes.

(3) FORM.—

(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be in a form which provides the energy efficiency rating of a qualifying new home, and shall be permanently displayed in a readily inspectable location in such home.

(b) LIMITATIONS.

(1) MAXIMUM CREDIT.—

(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

(i) in the case of a 30-percent home, $1,250, and

(ii) in the case of a 50-percent home, $2,000.

(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

(i) APPLIES TO HOME.—The term ‘30-percent home’ means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home for properties that qualify for the credit. 

(ii) 50-PERCENT HOME.—The term ‘50-percent home’ means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

(d) QUALIFICATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the cost of rehabilitation which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

(c) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means the person who constructed the qualifying new home, or in the case of a manufactured home, the manufacturer of such home.

(2) ENERGY EFFICIENT PROPERTY.—The term ‘energy efficient property’ means any energy efficient building component, and any component of any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

(3) QUALIFYING NEW HOME.—The term ‘qualifying new home’ means a dwelling—

(A) located in the United States, and

(B) whose construction of which is substantially completed after the date of the enactment of this section, and

(C) Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

(D) The term ‘ratings label affixed in dwelling’ includes a permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical panel of the new manufactured home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

(2) LIMITATION.—(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary shall examine the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Program for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to qualify for the credit regardless of whether such home uses a gas or oil furnace or electric heat pump,

(ii) require that any computer software allow for the calculation of performance based ratings of the energy efficiency measures which qualify for the credit under this section, and for the printing of forms for disclosure to the homeowner.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking ‘plus’ and by adding the following new paragraph:

(18) the new energy efficient home credit determined under section 45(g)(a)."

(c) DEDUCTION OF DOUBLY BENEFITED.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

(8) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credits determined under such taxable year under section 45(g)."

(d) LIMITATION ON CARRYBACK.—Section 36(b) of the Internal Revenue Code is amended by striking ‘and’ at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ‘plus’, and by adding at the end the following new paragraph:

(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45(g) may be carried back to any taxable year ending on or before the end of the tax year which is attributable to such credit before the date of the enactment of section 45(g)."

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by adding at the end the following new paragraph:

(12) The new energy efficient home credit determined under section 45(g)"

May 1, 2002
CONGRESSIONAL RECORD—SENATE S3771
SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) General Rules.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

"(b) Applicable Amount; Eligible Production.—For purposes of subsection (a)—

"(1) Applicable Amount.—The applicable amount in the case of—

"(A) $50, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

"(ii) a refrigerator which consumes at least 10 percent less kWh per year than such energy efficient appliance credit determined under subsection (b)(1)(A), and

"(B) $100, in the case of—

"(i) a clothes washer which is manufactured with at least a 1.42 MEF at least 1.5 MEF for washers produced after 2004, or

"(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy efficient appliance credit determined under subsection (b)(1)(A).

"(c) Eligible Production.—(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is an amount equal to—

"(i) the number of appliances in such category which were produced by the taxpayer during the calendar year ending with or within the taxable year,

"(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001,

"(iii) the number of subsections (a)(i), (B)(ii),

"(iv) the number of subsections (a)(ii), (B)(ii),

"(v) the number of subsections (a)(ii), (B)(ii),

"(vi) the number of subsections (a)(ii), (B)(ii),

"(b) Limitation on Maximum Credit.—(1) WITH RESPECT TO TAXPAYER.—For purposes of subsection (a), the credit allowed under subsection (a) with respect to a taxpayer for the taxable years ending with or within the taxable years ending with or within the taxable year shall not exceed—

"(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

"(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

"(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(c) Limitation on Maximum Credit.—(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

"(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

"(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

"(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed an amount equal to the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

"SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 15 percent of the qualified solar voltaic property expenditures made by the taxpayer during such taxable year,

"(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such taxable year,

"(3) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such taxable year,

"(4) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

"(b) Limitations.—(1) Maximum Credit.—The credit allowed under subsection (a) shall not exceed—

"(A) $2,000 for property described in subsection (d)(1),

"(B) $2,000 for property described in subsection (d)(2),

"(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

"(D) $2,000 for property described in subsection (d)(5), and

"(E) $2,500 for each central air conditioner,

"(ii) $250 for each electric heat pump,

"(iii) $250 for each central air conditioner,

"(iv) $75 for each electric heat pump water heater,

"(v) $75 for each central air conditioner,

"(vi) $75 for each geothermal heat pump.

"(2) Safety Certifications.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is installed for residential use and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

"(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets acceptable fire and electric code requirements, and

"(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements if any, which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for a central air conditioner, require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

"(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

"(iii) are in effect at the time of the acquisition of the property.

"(3) Carryforward of Unused Credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(b)(1) for such taxable year, the excess of the credits allowable under this subpart (other than this section and section 25D) shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) Definitions.—For purposes of this section—

"(1) Qualified Solar Water Heating Property Expenditure.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) Qualified Photovoltaic Property Expenditure.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property that uses solar energy to generate electricity for use in a dwelling unit.

"(3) Solar Panels.—No expenditure relating to a solar panel or other property installed as a roof for a portion of the structure of the property shall be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

"(2) Qualified Fuel Cell Property Expenditure.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified...
SEC. 25B. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In general.—Subsection (a) (as in effect for taxable years beginning after December 31, 2003) is amended by inserting “(including after the last paragraph)” after “in certain cases.”

(b) Qualified property.—For purposes of subparagraphs (A) through (D), the term “qualified property” means—

(1) any property which bears the same ratio to the amount determined to be allocable to such property as the allocation of any prior tax year bears to the amount allocable to such property for such tax year;

(2) qualified Tier II energy efficient property;

(3) qualified Tier II energy efficient building property;

(4) qualified Tier II energy efficient property;

(5) qualified Tier II energy efficient property;

(6) qualified Tier II energy efficient property;

(7) qualified Tier II energy efficient property;

(8) qualified Tier II energy efficient property;

(9) qualified Tier II energy efficient property;

(10) qualified Tier II energy efficient property;

(11) qualified Tier II energy efficient property;

(12) qualified Tier II energy efficient property;

(13) qualified Tier II energy efficient property;

(14) qualified Tier II energy efficient property;

(15) qualified Tier II energy efficient property;

(16) qualified Tier II energy efficient property;

(17) qualified Tier II energy efficient property;

(18) qualified Tier II energy efficient property;

(19) qualified Tier II energy efficient property;

(20) qualified Tier II energy efficient property;

(21) qualified Tier II energy efficient property;

(22) qualified Tier II energy efficient property;

(23) qualified Tier II energy efficient property;

(24) qualified Tier II energy efficient property;

(25) qualified Tier II energy efficient property;

(26) qualified Tier II energy efficient property;

(27) qualified Tier II energy efficient property.

(c) Additional conforming amendments.—

(1) Section 23(c), as in effect for taxable years beginning after December 31, 2003, is amended by striking “section 1400C” and inserting “sections 23C and 25C.”

(2) Section 25C(1)(C), as in effect for taxable years beginning after December 31, 2003, is amended by inserting “” 25C,” after “sections.”

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “,” after “section.”

(4) Paragraph (2)(D), as in effect for taxable years beginning after December 31, 2003, is amended by inserting “section 25C” after “firewall.”

(5) The table of sections for subpart A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Residential energy efficient property.”

(d) Effective dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to a tax year ending after December 31, 2002, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) In general.—Subsection (a) of section 48(a)(3) (defining energy property) is amended by striking “or” at the end of clause (i), by adding “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) qualified fuel cell property or qualified microturbine property.”

(b) Qualified fuel cell property; qualified microturbine property.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this section—

(A) qualified fuel cell property; qualified microturbine property.”

(i) In general.—The term “qualified fuel cell property” means a fuel cell power plant that—

(I) generates electricity using an electrochemical process, and

(II) has an electricity-only generation efficiency greater than 30 percent.

(ii) limitation.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

(I) 30 percent of the basis of such property, or

(II) $500 for each 0.5 kilowatt of capacity of such property.

(iii) fuel cell power plant.—The term ‘‘fuel cell power plant’’ means an integrated system containing an annular cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical processes.

(iv) termination.—Such term shall not include any property placed in service after December 31, 2007.

(c) Additional conforming amendments.—

(1) Section 33(c), as in effect for taxable years beginning after December 31, 2003, is amended by striking “section 1400C” and inserting “sections 23C and 25C.”

(2) Section 25C(1)(C), as in effect for taxable years beginning after December 31, 2004, is amended by inserting “,” 25C,” after “sections.”
on the date of the enactment of the Revenue Act of 1976, or

(ii) the square footage of the building with respect to which the expenditures are made.

(c) Maximum Amount of Deduction.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of (1) $2.25, and

(2) the square footage of the building with respect to which the expenditures are made.

(d) Maximum Amount Allowed.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

(2) Energy Efficient Commercial Building Property Expenditures.—For purposes of this section—

(i) In General.—The term ‘energy efficient commercial building property expenditures’ means an amount paid or incurred for energy efficient commercial building property installed on or in or constructed on or in connection with the construction or reconstruction of property—

(A) for which depreciation is allowable under section 167,

(B) which is located in the United States, and

(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (2)). Such term includes property expenditures allocable to the onsite preparation, assembly, or original installation of the property.

(ii) Definitions.—

(A) Equipment.—The term ‘equipment’ means—

(I) controls for meeting relevant power standards, power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors,

(II) energy management systems,

(III) all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power equipment, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

(B) Amounts.—The term ‘amounts’ means an amount paid or incurred for energy efficient commercial building property expenditures measured performance that exceeds typ-

C(4) Notice to Owner.—The qualified individual shall provide notice to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under subparagraph (B)(iv)(II).

(c) Certification.—

(A) In General.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Insurance National Accreditation Procedures for Home Energy Rating Systems.

(B) Qualified Individuals.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Energy Rating System Organization in local building code agencies, States or local energy offices, utilities, or any other organization which meets the requirements prescribed under this section.
“(e) Basis Reduction.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

“(f) Regulations.—The Secretary shall promulgate such regulations as may be necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

“SEC. 2107. COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this section—

“(1) The term ‘combined heat and power system property’ means property comprising a system—

“(i) which uses the same source energy for the simultaneous or sequential generation of electric power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications);

“(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities;

“(iii) which produces—

“(A) at least 20 percent of its total useful energy in the form of thermal power (or combination thereof), and

“(B) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof), in excess of 50 megawatts or a mechanical energy capacity of less than 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities); and

“(III) which is placed in service after December 31, 2002, and before January 1, 2007.

“(B) Special Rules.—

“(i) Energy Efficiency Percentage.—For purposes of subparagraph (A)(ii), the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(II) which is placed in service after December 31, 2002, and before January 1, 2007.

“(C) Use.—The term ‘combined heat and power system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(D) Public Utility Property.—The term ‘combined heat and power system property’ includes public utility property (as defined in section 48(f)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) Certain Exception Not to Apply.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

“(E) Nonapplication of Certain Rules.—For purposes of determining if the term ‘combined heat and power system property’ includes technologies which generate electricity or mechanical power using back-up lines in place of existing pressure-reducing values or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or similar, electric power systems, subparagraphs (A)(i) and (A)(iii) shall be applied without regard to clauses (iii) and (iv) thereof.

“(f) Definitions.—Section 168(f) of this Act applies to combined heat and power system property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

“(g) General Rules for Complex Energy or Natural Gas Systems.—The term ‘complex energy or natural gas system’ shall be treated as property described in subparagraph (B) if—

“(i) the property is placed in service after December 31, 2007, and

“(II) the complex energy or natural gas system is placed in service after such date.

“(II) Which the term ‘complex energy or natural gas system’ means property comprising a system—

“(A) which uses the same source energy for the simultaneous or sequential generation of electric power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications);

“(B) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities;

“(C) which produces—

“(A) at least 20 percent of its total useful energy in the form of thermal power (or combination thereof), and

“(B) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof), in excess of 50 megawatts or a mechanical energy capacity of less than 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities); and

“(III) which is placed in service after December 31, 2002, and before January 1, 2007.

“(D) Special Rules.—

“(i) Energy Efficiency Percentage.—For purposes of subparagraph (A)(ii), the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(II) which is placed in service after December 31, 2002, and before January 1, 2007.

“(E) Use.—The term ‘complex energy or natural gas system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(F) Public Utility Property.—The term ‘complex energy or natural gas system property’ includes public utility property (as defined in section 48(f)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) Certain Exception Not to Apply.—The matter following paragraph (3)(D) shall not apply to complex energy or natural gas system property.

“(G) Nonapplication of Certain Rules.—For purposes of determining if the term ‘complex energy or natural gas system property’ includes technologies which generate electricity or mechanical power using back-up lines in place of existing pressure-reducing values or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or similar, electric power systems, subparagraphs (A)(i) and (A)(iii) shall be applied without regard to clauses (iii) and (iv) thereof.

“(h) Definitions.—Section 168(f) of this Act applies to complex energy or natural gas system property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

“(i) General Rules for Complex Energy or Natural Gas Systems.—The term ‘complex energy or natural gas system’ shall be treated as property described in subparagraph (B) if—

“(i) the property is placed in service after December 31, 2007, and

“(II) the complex energy or natural gas system is placed in service after such date.

“(II) Which the term ‘complex energy or natural gas system’ means property comprising a system—

“(A) which uses the same source energy for the simultaneous or sequential generation of electric power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications);

“(B) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities;

“(C) which produces—

“(A) at least 20 percent of its total useful energy in the form of thermal power (or combination thereof), and

“(B) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof), in excess of 50 megawatts or a mechanical energy capacity of less than 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities); and

“(III) which is placed in service after December 31, 2002, and before January 1, 2007.

“(D) Special Rules.—

“(i) Energy Efficiency Percentage.—For purposes of subparagraph (A)(ii), the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(II) which is placed in service after December 31, 2002, and before January 1, 2007.

“(E) Use.—The term ‘complex energy or natural gas system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(F) Public Utility Property.—The term ‘complex energy or natural gas system property’ includes public utility property (as defined in section 48(f)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) Certain Exception Not to Apply.—The matter following paragraph (3)(D) shall not apply to complex energy or natural gas system property.

“(G) Nonapplication of Certain Rules.—For purposes of determining if the term ‘complex energy or natural gas system property’ includes technologies which generate electricity or mechanical power using back-up lines in place of existing pressure-reducing values or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or similar, electric power systems, subparagraphs (A)(i) and (A)(iii) shall be applied without regard to clauses (iii) and (iv) thereof.

“(h) General Rules for Complex Energy or Natural Gas Systems.—The term ‘complex energy or natural gas system’ shall be treated as property described in subparagraph (B) if—

“(i) the property is placed in service after December 31, 2007, and

“(II) the complex energy or natural gas system is placed in service after such date.

“(II) Which the term ‘complex energy or natural gas system’ means property comprising a system—

“(A) which uses the same source energy for the simultaneous or sequential generation of electric power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications);

“(B) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities;

“(C) which produces—

“(A) at least 20 percent of its total useful energy in the form of thermal power (or combination thereof), and

“(B) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof), in excess of 50 megawatts or a mechanical energy capacity of less than 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities); and

“(III) which is placed in service after December 31, 2002, and before January 1, 2007.

“(D) Special Rules.—

“(i) Energy Efficiency Percentage.—For purposes of subparagraph (A)(ii), the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

“(II) which is placed in service after December 31, 2002, and before January 1, 2007.

“(E) Use.—The term ‘complex energy or natural gas system property’ does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(F) Public Utility Property.—The term ‘complex energy or natural gas system property’ includes public utility property (as defined in section 48(f)(1)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(II) Certain Exception Not to Apply.—The matter following paragraph (3)(D) shall not apply to complex energy or natural gas system property.

“(G) Nonapplication of Certain Rules.—For purposes of determining if the term ‘complex energy or natural gas system property’ includes technologies which generate electricity or mechanical power using back-up lines in place of existing pressure-reducing values or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or similar, electric power systems, subparagraphs (A)(i) and (A)(iii) shall be applied without regard to clauses (iii) and (iv) thereof.
“(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subsection) qualify for a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.”

(c) Extension of Energy Credit Before Effective Date.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

“(D) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property placed in service after December 31, 2005 shall be carried back to any taxable year ending before January 1, 2006.”

(d) Conforming Amendments.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(5)(C)” and inserting “section 48(a)(6)(C)”.

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002, in taxable years ending after such date.

SEC. 1109. CRedit FOR ENERGY EFFICIENCY IMPrOVEMENTS TO EXISTING HOMES.

(a) In General.—Part I of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section 25D:

“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a member of a condominium association under subsection (f)(1)(B), and if any expenditures with respect to energy efficiency improvements installed pursuant to this section are paid or incurred by such individual and such improvements are installed after January 1, 2010, the credit allowed under this section shall be reduced by the amount of $300 reduced by the sum of the credits allowed under this section with respect to such improvement and any prior improvements.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

“(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a taxpayer is allowed credit under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling shall be reduced by the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subsection (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and otherwise allowable under section 26(b) for such taxable year.

“(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program established by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

“(1) such component or combination of measures is installed in or on a dwelling—

“(A) located in the United States, and

“(B) owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121);

“(2) the original use of such component or combination of measures commences with the taxability of such property, and

“(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

“(e) CERTIFICATION.—

“(1) METHODS OF CERTIFICATION.—

“(A) COMPONENT-BASED METHOD.—The certification described in this subsection with respect to a dwelling in 1 or more prior taxable years shall not exceed $300.

“(B) PERFORMANCE-BASED METHOD.—

“(i) IN GENERAL.—If a dwelling meets the energy efficient building envelope component standard described in this subsection with respect to such dwelling in its original condition, and

“(ii) accompanied by a written analysis documenting the proper application of the performance-based method certification under clause (i). Such shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculations Manual.

“(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

“(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a provider (as defined in section 528C), or a qualified energy efficiency organization;

“(B) in the case of the method described in paragraph (1)(B), an individual recognized by the Secretary for such purposes.

“(f) FORM.—A certification described in this subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient building envelope component, the energy efficient building envelope component rating, and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

“(g) REGULATIONS.—

“(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in subsection (d), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Program, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

“(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

“(ii) require that any computer software allow for the calculation of the energy efficiency measures necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

“(B) CERTIFICATION.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of enactment of this section and ending on December 31, 2006.

“(i) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is occupied by 2 or more individuals during any calendar year as a residence by 2 or more individuals the following shall apply:

“(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall not exceed $300 for each of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(C) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 39) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

“(D) CONDOMINIUM.—In the case of an individual who is a member of a condominium association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual’s proportionate share of the cost of qualified energy efficiency improvements made by such association.

“(E) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

“(1) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain in a dwelling when installed in or on such dwelling,

“(2) exterior windows (including skylights), and

“(3) exterior doors.

“(F) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term ‘dwelling’ includes a manufactured home which conforms to the Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

“(G) BASIS ADJUSTMENT.—For purposes of this subsection, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(H) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of enactment of this section and ending on December 31, 2006.

“(J) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:
“(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxpaying year.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ‘‘section 25(c)’’ for each taxable year reduced by the sum of the credits allowable under this subpart (other than this section)’’ and inserting ‘‘sections 25C and 25D’’.

(B) Section 25C(b)(3), as amended by this Act, is amended by striking ‘‘25C and 25D’’ and inserting ‘‘25C, 25D, and 25E’’.

(C) Section 25D(1)(C), as amended by this Act, is amended by striking ‘‘and 25C and inserting ‘‘25C, 25D, and 25E’’.

(D) Section 25E(1)(C), as amended by this Act, is amended by striking ‘‘25D’’ and inserting ‘‘25C, 25D, and 25E’’.

(E) Section 25B(2), as added by this Act, is amended by striking ‘‘23 and 25C and inserting ‘‘23, 25C, and 25D’’.

(F) Section 25C(1), as added by this Act, is amended by striking ‘‘and 25C’’ and inserting ‘‘25C and 25D’’.

(G) Section 904(b), as amended by this Act, is amended by striking ‘‘and 25C’’ and inserting ‘‘25C, 25D, and 25E’’.

(H) Section 1400(c), as amended by this Act, is amended by striking ‘‘and 25C’’ and inserting ‘‘25C, 25D, and 25E’’.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ‘‘25D,’’ after ‘‘25C’’.

(2) Section 23(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ‘‘25D,’’ after ‘‘25C’’.

(3) Subsection (a) of section 1915, as amended by this Act, is amended by striking ‘‘and’’ at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ‘‘; and’’, and by adding at the end the following new paragraph:

‘‘(33) The extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.‘‘

(4) Subsection (c)(1), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ‘‘25C and 25D’’ and inserting ‘‘25C, 25D, and 25E’’.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

‘‘Sec. 25D. Energy efficiency improvements to existing homes.’’.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect as provided after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2001.

SEC. 2110. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—For taxable years beginning after December 31, 2001, in the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount
equal to the cost of each qualified water submetering device placed in service during the taxable year.

(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed

$400.

(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term ‘‘eligible resupplier’’ means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

(d) QUALIFIED WATER SUBMETERING DEVICE.—The term ‘‘qualified water submetering device’’ means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2004, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIII—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 2201. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A (relating to business related credits), as added by this Act, is amended by adding at the end the following new section:

‘‘SEC. 45L. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

‘‘(a) GENERAL RULE.—For purposes of section 45, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

(1) the applicable amount of clean coal technology production credit, multiplied by

(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during the taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service as a qualifying clean coal technology unit.

‘‘(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to 0.0034.

‘‘(2) INFLATION ADJUSTMENT.—For calendar years 2003 and 2004, the applicable amount of the clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the applicable amount is increased, if any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

‘‘(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio of the portion of the unit’s total net capacity limitation allocated to the taxpayer to the total net capacity of such unit.

‘‘(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) DEFINING QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term ‘‘qualifying clean coal technology unit’’ means a clean coal technology unit of the taxpayer which—

(A) on the date of the enactment of this section, was a qualifying clean coal technology unit;

(B) is capable of producing electricity at a heat rate of less than 8,000 Btu per kilowatt hour in service after the date of the enactment of this section;

(C) had a net capacity of 100 megawatts or more;

(D) qualified clean coal technology unit during the 10-year period beginning on the date of the enactment of this section,

(e) EXclusion.—Subsection (a) shall not apply with respect to a qualifying clean coal technology unit if the unit was a qualifying clean coal technology unit before such date and was not a clean coal technology unit during the 10-year period beginning on the date of the enactment of this section.
is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Department of Energy.

(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (c).

(2) (B) and COAL TECHNOLOGY UNIT.—The term ‘‘clean coal technology unit’’ means a unit which

(a) uses clean coal technology, including advanced clean coal atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electric power;

(b) uses coal to produce 75 percent or more of its thermal output as electricity,

(c) has a design net heat rate of at least 500 Btu per kilowatt hour (HHV) less than that of such unit as described in paragraph (1)(A),

(d) has a maximum design net heat rate of not more than 9,500, and

(e) meets the pollution control requirements of paragraph (3).

(3) POLLUTION CONTROL REQUIREMENTS.—

(A) IN GENERAL.—A unit meets the requirements of this paragraph if

(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

(I) paragraph (4) or

(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the standards or air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement of the unit.

(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source;

(ii) in the case of nitrogen oxide emissions—

(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

(II) 0.08 pound per million Btu of heat input if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

(iii) in the case of particulate emissions, 0.2 pound per million Btu of heat input.

(4) AMOUNT OF LIMITATION.—The design net heat rate with respect to any unit, measured in Btu per kilovolt hour (HHV)—

(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit’s co-generation of steam),

(B) shall be determined with respect to the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

\[
\text{Design net heat rate} = \frac{1}{\text{HHV} \times \left[1 - \left(\frac{0.013}{1 + 1.013} \right) \left(\frac{\text{Btu per pound}}{1000}\right)\right]}
\]

and

(C) shall be corrected for the site reference conditions of—

(i) elevation above sea level of 500 feet,

(ii) air pressure of 14.4 pounds per square inch absolute (psia),

(iii) temperature, dry bulb of 62°F,

(iv) temperature, dew point of 54°F, and

(v) relative humidity of 55 percent.

(5) HHV.—The term ‘‘HHV’’ means higher heating value.

(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

(7) INFLATION ADJUSTMENT FACTOR.—

(A) IN GENERAL.—The term ‘‘inflation adjustment factor’’ means, with respect to a calendar year, a fraction the numerator of which is the GDP in the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2000.

(B) GDP IMPLICIT PRICE DEFlator.—The term ‘‘GDP implicit price deflator’’ means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

(8) NONCOMPLIANCE WITH POLLUTION LAWS.—

For purposes of this section, a unit which is not in compliance with applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

(9) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

(A) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

(B) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units to the Secretary may prescribe under the regulations under paragraph (3).

(C) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

(i) to carry out the purposes of this subsection,

(ii) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity attributable to all such units during any period of time shall not exceed 4,000 megawatts,

(iii) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

(I) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in clause (II), and other environmental performance be placed in service as soon as possible,

(ii) to set progress requirements and conditions for procurement and implementation of qualifying clean coal technology units, including—

(I) a site agreement,

(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

(III) filings for all necessary preconstruction approvals,

(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

(V) such other factors that the Secretary determines are appropriate,

(iii) to provide a national megawatt capacity limitation in a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would meet the needs of electric power production encouraged with the available tax credits,

(E) to set progress requirements and conditional approval so that capacity allocations for clean coal technology units are encouraged only to the extent that such units are likely to meet the necessary conditions for qualifying by being successfully commercialized by the Secretary to other clean coal technology units, and

(F) to provide for administrative procedures to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

(B) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ‘‘plus’’ at the end of paragraph (a), by striking the period at the end of paragraph (b), and inserting ‘‘plus’’, and by adding at the end the following new paragraph:

‘‘(20) the qualifying clean coal technology production credit determined under section 45(f),’’.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

‘‘(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unrecovered business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of this section .’’

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

‘‘Sec. 45I. Credit for production from qualifying clean coal technology units.’’

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending on or after such date.

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNITS.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ‘‘and’’ at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ‘‘, and’’, and by adding at the end the following new paragraph:

‘‘(4) the qualifying advanced clean coal technology unit credit.’’

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of section 46 (relating to rules for computing investment credit) is amended by adding after section 48 the following new section:

SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

(1) IN GENERAL.—For purposes of subsection (a), the term ‘‘qualifying advanced clean coal technology unit’’ means an advanced clean coal technology unit of the taxpayer—

(A)(i) in the case of a unit first placed in service before the date of the enactment of this section, the original use of which commences with the taxpayer, or

(ii) in the case of a unit first placed in service after such date of the enactment of this section,

(iii) which is acquired through purchase (as defined by section 179(d)(2)),

(B)(i) which is deprecated under section 167, 

(ii) which has a useful life of not less than 4 years,

(C) which is located in the United States,
"(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative at the National Energy Technology Laboratory;

"(F) which is not a qualifying clean coal technology unit, and

"(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

For purposes of subparagraph (A) of paragraph (1), in the case of units placed in service before the date of the enactment of this section and before January 1, 2017, and before January 1, 2017, and

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is otherwise transferred, within 3 years after the date such unit was originally placed in service, for a period of not less than 12 years, such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) NONCOMPLIANCE WITH POLLUTION LAWS.—

For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements of any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

"(c) APPLICABLE PERCENTAGE.—

For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(1) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

For purposes of this section—

"(A) is—

(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

(ii) an eligible pressurized fluidized bed combustion technology unit,

(iii) an eligible integrated gasification combined cycle technology unit, or

(iv) an eligible other technology unit, and

(B) meets the carbon emission rate requirements of paragraph (6).

"(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—

The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of more than 2,000 megawatts (not more than 9,900 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(i) in the case of a unit using design coal with a heat content of less than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour, and

(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(3) ELIGIBLE OTHER TECHNOLOGY UNIT.—

The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(B) has a design net heat rate of not more than 2,000 megawatts (not more than 250 megawatts in the case of units placed in service before 2009, and 4,350 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HHV) using coal, including co-production of heat, of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

"(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—

The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(B) has a design net heat rate of not more than 2,000 megawatts (not more than 9,900 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(i) in the case of a unit using design coal with a heat content of less than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour, and

(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—

The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(B) has a design net heat rate of not more than 2,000 megawatts (not more than 9,900 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(i) in the case of a unit using design coal with a heat content of less than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour, and

(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) has a design net heat rate of not more than 2,000 megawatts (not more than 9,900 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(i) in the case of a unit using design coal with a heat content of less than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour, and

(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

"(B) has a design net heat rate of not more than 2,000 megawatts (not more than 9,900 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

"(i) in the case of a unit using design coal with a heat content of less than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour, and

(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.
special rules) is amended by adding at the end of clause (iii) and inserting ‘‘(j)xy’’ after the semicolon at the end of clause (i). (B) In the case of a unit originally placed in service after 2008 and before 2013, if—

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<th>The applicable amount is:</th>
<th>For 1st 5 years of such service</th>
<th>For 2d 5 years of such service</th>
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<tr>
<td>Not more than 7,770</td>
<td>$0.0105</td>
<td>$0.0090</td>
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<td>More than 7,770 but not more than 8,125</td>
<td>$0.0085</td>
<td>$0.0066</td>
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<tr>
<td>More than 8,125 but less than 8,350</td>
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(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

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<th>The design net heat rate is:</th>
<th>The applicable amount is:</th>
</tr>
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<tr>
<td>Not more than 7,380</td>
<td>$0.0140</td>
</tr>
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<td>More than 7,380 but not more than 7,720</td>
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</table>

(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

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</tr>
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</tr>
<tr>
<td>More than 7,380 but not more than 7,720</td>
<td>$0.0120</td>
</tr>
</tbody>
</table>
“(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

“The unit design net thermal efficiency (HHV) is:

<table>
<thead>
<tr>
<th>Efficiency</th>
<th>For 1st 5 years of such service</th>
<th>For 2nd 5 years of such service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not less than 49.6 percent</td>
<td>$0.0105</td>
<td>$0.0090</td>
</tr>
<tr>
<td>Less than 49.6 but not less than 48 percent</td>
<td>$0.0085</td>
<td>$0.0075</td>
</tr>
<tr>
<td>Less than 48 but not less than 40.9 percent</td>
<td>$0.0060</td>
<td>$0.0038</td>
</tr>
</tbody>
</table>

“(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

“The unit design net thermal efficiency (HHV) is:

<table>
<thead>
<tr>
<th>Efficiency</th>
<th>For 1st 5 years of such service</th>
<th>For 2nd 5 years of such service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not less than 43.6 percent</td>
<td>$0.0140</td>
<td>$0.0115</td>
</tr>
<tr>
<td>Less than 43.6 but not less than 42 percent</td>
<td>$0.0120</td>
<td>$0.0090</td>
</tr>
</tbody>
</table>

“(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

“The unit design net thermal efficiency (HHV) is:

<table>
<thead>
<tr>
<th>Efficiency</th>
<th>For 1st 5 years of such service</th>
<th>For 2nd 5 years of such service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not less than 44.2 percent</td>
<td>$0.0140</td>
<td>$0.0115</td>
</tr>
<tr>
<td>Less than 44.2 but not less than 43.9 percent</td>
<td>$0.0120</td>
<td>$0.0090</td>
</tr>
</tbody>
</table>

“(c) INFLATION ADJUSTMENT.—For calendar years after 2002, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

“(2) APPLICABLE RULES.—The rules of paragraphs (1), (4), and (5) of section 45(d) shall apply.

“(b) CREDIT TREATED AS BUSINESS CREDIT.—

Section 38(d), as amended by this Act, is amended by adding at the end the following new paragraph:

“(21) The qualifying advanced clean coal technology production credit determined under section 45J shall be treated as a credit which is attributable to the qualifying advanced clean coal technology production credit determined under section 45I as a business credit.

“(c) TRANSITIONAL RULE.—

Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(18) No carryback of section 45I credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.

“(d) DENIAL OF DOUBLE BENEFIT.—

Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(9) Denial of double benefit.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45I.

“(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.

“(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT

(a) IN GENERAL.—

Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

“(1) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

“(1) ALLOWANCE OF CREDITS.—

“(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

“(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

“(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

“(ii) an organization described in section 1381(b)(2)(C),

“(iii) a public utility (as defined in section 136(c)(2)(B)),

“(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

“(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

“(vi) the Tennessee Valley Authority.

“(2) TRANSFER OF CREDIT.—

“(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

“(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

“(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

“(2) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), in effect on the date of the enactment of this section.

“(4) USE BY TVA.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(v), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

“(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall
be applied first against the annual return on the appropriations investment.

"(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (2) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 931(c)(2).

(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIII.—OIL AND GAS PROVISIONS

SEC. 2301. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A (relating to qualified business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

"(a) IN GENERAL.—The credit amount is—

"(1) the amount equal to such dollar amount multiplied by the ratio which taxpayer’s production for such taxable year bears to 365.

"(2) produces water at a rate not less than 95 percent of total well effluent.

"(B) CRUDE OIL, ETC.—The terms ‘crude oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have the meanings given such terms by section 613A(e).

"(C) BARREL EQUIVALENT.—The term ‘barrel’ equals the conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

"(D) OTHER RULES.—

"(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which the taxpayer’s revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

"(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

"(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for credit under this section for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

"(4) NONCOMPLIANCE WITH POLLUTION LAWS.—

"(A) Subsection (b)(3)(A) shall be read as follows:

"(B) CREDIT TREATED AS BUSINESS CREDIT.—

"(2) LIMITATION.

"(i) the production from which during the taxable year is treated as marginal production under section 6134(c)(6), or

"(ii) which, during the taxable year—

"(B) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2302. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 166(g)(3) (relating to treatment of certain property) is amended by striking “and” at the end of clause (i), by redesignating clause (ii) as clause (i), and by inserting after clause (i) the following new clause:

"(ii) any natural gas gathering line, and

"(B) NATURAL GAS GATHERING LINE.—

"(1) OPERATION PERIOD.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

"(B) the equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(C) OTHER RULES.—

"(D) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 2303. EXPENDING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

"(1) TREATMENT AS EXPENSE.—

"(I) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense allocable to taxable income which is attributable to the taxable year in which such costs were paid or incurred.

"(II) LIMITATIONS.—

"(C) Qualified and Safe Consumer Fuel.—

"(B) the equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

"(C) OTHER RULES.—

"(D) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

"(2) LIMITATION.

"(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection...
for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A),—

(1) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

(2) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in paragraph (1) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such average daily refinery runs for the period described in subsection (b)(2) to 50,000 barrels.

(3) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CAPITAL COSTS.—The term "qualified capital costs" means any costs which are—

(A) are otherwise chargeable to capital account, and

(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

(2) SMALL BUSINESS REFINDER.—The term "small business refiner" means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose daily refinery runs for the 1-year period ending on the date of the enactment of this section did not exceed 265,000 barrels.

(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

(e) CONTROLLED GROUPs.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

(f) CONFORMING AMENDMENTS.—

(1) Section 263A(g)(1), as amended by this Act, is amended by inserting "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting " or ", and by inserting after subparagraph (J) the following new subparagraph (K):—

(K) expenditures for which a deduction is allowed under section 179D.

(2) Section 263A(a) is amended by inserting "179C", after "section".

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking "or 179C" each place it appears in the heading and text and inserting " or 179C, or 179D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (3) and inserting " and ", and by adding the following new paragraph:

(3) To the extent provided in section 179D(a)(1).

(5) Section 1245(a), as amended by this Act, is amended by inserting "179D", after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2304. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to general business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENVIRONMENTAL TAX CREDIT.

(1) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount determined under this section to the extent provided in section 179D, or, if earlier, for the taxable year of each patron the payment period (as defined in section 1381(a)) for the taxable year which is equal to the amount of the credit determined for the taxable year under section 1381(a) on the first day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron the payment period of which begins before the first day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron the payment period of which begins on or after the date on which the patron receives notice from the cooperative of the apportionment.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (a) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting " or plus", and by adding at the end the following new paragraph:

(3) In the case of a small business refiner, the environmental tax credit determined under section 45L(a).

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding the following new subsection (d) the following new subsection:

"(d) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).

(d) CLEICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"SEC. 45L. Environmental tax credit."

SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 6213(d) (relating to oil refiners excluded) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil after the end of the taxable year in which such certificate is issued under such section, the taxpayer may not apply to the taxpayer for a taxable year for the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate
refinery runs for the taxable year by the number of days in the taxable year.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2306. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.

Section 613(a)(6)(H) (relating to temporary suspension of income tax on some income derived from marginal production), as amended by section 607(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2006.”

SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENSES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

**SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENSES FOR DOMESTIC OIL AND GAS WELLS.**

“A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 636) based on a period of 24 months beginning with the month in which such expenses were incurred.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

**SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding after the preceding new section:

**SEC. 200. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding after the preceding new section:

**SEC. 200A. STUDY OF COAL BED METHANE.**

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane. Such study shall be made in conjunction with the study to be undertaken by the Secretary of the Interior on the effects of coal bed methane production on surface and water resources, provided in section 607 of the Energy Policy Act of 2002.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credit allowed under section 30 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead December 2001 price (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment and implementation of such section 29.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002. **SEC. 2310. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUELS FROM A NONCONVENTIONAL SOURCE.**

(a) IN GENERAL.—Section 2305 is amended by adding at the end the following subsection:

“**(h) EXTENSION FOR OTHER FACILITIES.**—

(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of section 2306(c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, in the case of a well or facility for producing qualified fuels described in subsection (c) of section 2306, this section shall apply with respect to such fuels produced at such well or facility beginning on the date in which such well or facility is placed in service.

(2) FACILITIES PRODUCING REFINED COAL.—

(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility beginning on the date such facility is placed in service.

(B) REFINED COAL.—For purposes of this paragraph, the term ‘refined coal’ means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

(C) COVERED FACILITIES.

(1) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

(i) a qualified emission reduction, and

(ii) a qualified enhanced value.

(2) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term ‘qualified emission reduction’ means a reduction of at least 20 percent in the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process, as compared to the emissions released when burning the feedstock coal or comparable coal predominately available in the marketplace as of January 1, 2002.

(3) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term ‘qualified enhanced value’ means an increase of at least 50 percent in the price of refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

(4) QUA LIFIED ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

(5) WELLS PRODUCING VISCOUS OIL.—

(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well beginning on the date such well is placed in service.

(B) VISCOUS OIL.—The term ‘viscous oil’ means heavy oil, as defined in section 613(a)(6), except that—

(i) ‘22 degrees’ shall be substituted for ‘20 degrees’ in applying subparagraph (F) thereof, and

(ii) in all cases, the oil gravity shall be measured from the initial well head samples, drill cuttings, or any similar data hole sample.

(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the oil is not consumed in the immediate vicinity of the wellhead.

(D) COALMINE METHANE GAS.—

(A) IN GENERAL.—This section shall apply to coalmine methane gas—

(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term ‘coalmine gas’ means any methane gas which is—

(1) liberated during qualified coal mining operations, or

(2) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

(C) SPECIAL RULE FOR ADVANCED EXTRAC TION.—In the case of a coalmine gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction begins in the immediate area where the coalmine methane gas was removed.

(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered qualified coal mining operations during such period.

(E) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

(A) IN GENERAL.—In the case of facility for processing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, placed in service in the case of any coke, coke gas, or natural gas and certain byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B) after January 1, 2005.

(B) CREDIT AMOUNT.—In determining the amount of credit allowed under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).

(C) EXTENSION FOR CERTAIN FUELS PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting “January 1, 2005, in the case of any coke, coke gas, or certain byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B)” after “January 1, 2003.”
SEC. 2311. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) In General.—Subparagraph (E) of section 168(g)(3)(F) (relating to classification of certain property used or held for use in a trade or business as real property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting “; and”, and by adding at the end the following new clause:

“(iv) in any accession transaction (other than income received or accrued directly or indirectly from a member),”.

(b) Alternative System.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

“(E)(iv) ……………………………… 20.”.

(c) Effective Date.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) Ongoing Study.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from any restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate tax issues resulting from the restructuring of the electric industry.

(b) Regulatory Relief.—In connection with the study described in subsection (a), the Secretary of the Treasury shall have authority, as appropriate, to modify or suspend regulations that may impede an electric utility company’s ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) Reports.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2002, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subsection A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) Repeat of Limitation on Deposits into Fund Based on Cost of Service; Contributions After Funding Period.—Subsection (b) of section 468A is amended to read as follows:

“(b) AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the amount that is applicable to such taxable year.”.

(b) Clarification of Treatment of Fund Transfers.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

“(f) Treatment of Fund Transfers.—If, in connection with the transfer of the taxpayer’s interest in a nuclear power plant, the taxpayer transfers property to the transferee elects to continue the application of this section to such Fund.

“(A) For purposes of this subsection such Fund shall not cause such Fund to be disqualified from the application of this section, and

“(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.”.

(c) Deduction for Nuclear Decommissioning Costs.—Subparagraph (2) of section 468A(c) is amended to read as follows:

“(C) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS.—(i) In general.—Subparagraph (C) of section 501(c)(12) is amended by striking “or” at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

“(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),”.

“(iii) from any nuclear decommissioning transaction,

“(iv) from any asset exchange or conversion transaction, or

“(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.”.

(d) Definitions and Special Rules.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

“(e) For purposes of subparagraph (C)(i)—

“(i) the term ‘open access transaction’ means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

“(I) the provision or sale of transmission service or ancillary services meets the open access requirements of subparagraph (C)(i) only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

“(II) the provision or sale of electric energy distribution service meets the open access requirements of this subparagraph only if such services are provided on a non-discriminatory open access basis to end-users served by such company or a member or cooperative electric company (or its members).

“(III) the delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subparagraph only if such facility is directly connected to distribution facilities owned by a mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subparagraph (C)(i)(II).

“(d) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this paragraph relating to whether or not such company will join a regional transmission organization.

“(e) If a mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

“(f) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to the Public Utility Commission of Texas with respect to transmission organization controls the transmission facilities.

“(g) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

“(h) (I) The term ‘base year’ means—

“(I) the calendar year preceding the start-up year.

“(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

“(I) The term ‘transmission facility’ means an electric output facility (replacement transmission facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility (replacement transmission facility) under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 1992).

“(II) the term ‘FERC’ means the Federal Energy Regulatory Commission.

“(F) The term ‘nuclear decommissioning transaction’ means—

“(I) any transfer to a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company’s interest in a nuclear power plant or nuclear power plant unit,

“(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

“(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

“(G) The term ‘asset exchange or conversion transaction’ means any voluntary exchange or involuntary conversion of any property related to the transmission of electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1032 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

“(I) generating, transmitting, distributing, or selling electric energy, or

“(ii) producing, transmitting, distributing, or selling natural gas.”.

(b) Treatment of Income from Load Loss Transactions.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (e) the following new subparagraph:

“(h) In the case of a mutual or cooperative electric company described in this paragraph or any successor of such company, income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purposes of defraying load loss expenses and any expenses related to such expenses.

“(i) For purposes of clause (i), the term ‘load loss transaction’ means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

“(j) For purposes of clause (ii), the load loss mitigation sales limit for each year of the recovery period is the sum of the annual load losses for each year of such period.

“(k) For purposes of clause (iii), a mutual or cooperative electric company’s annual load loss for each year of the recovery period is the amount (if any) by which—

“(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

“(II) the megawatt hours of electric energy sold during the base year to such members.

“(l) For purposes of clause (ii), the term ‘base year’ means—

“(I) the calendar year preceding the start-up year.

“(l) at the election of the electric company, the second or third calendar years preceding the start-up year.

“(m) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.”.
“(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subsection or, if later, at the election of the mutual or cooperative company, for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under paragraph (ii) of this subsection.

“(viii) In the case of a mutual or cooperative electric company, any income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”

“(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

“(1) IN GENERAL.—In the case of a mutual or cooperative electric company, any income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.”

“(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

“(e) CREDIT FROM INCOME FROM LOAD LOSS TRANSACTIONS OF ORGANIZATIONS DESCRIBED IN SUBSECTION 501(c)(12) (relating to modifications) is amended by adding at the end the following new subsection:

“(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 516 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

“(b) TREATMENT OF TRAFFIC IN ANY TAXABLE YEAR

“(1) IN GENERAL.—If the Federal Energy Regulatory Commission determines in its authorization of a transaction under section 202 of the Federal Power Act (16 U.S.C. 824b) that the transaction will be subject to the rules applicable to regional transmission organizations, and

“(ii) whose transmission facilities to which the transaction under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-authorized regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

“(C) in the case of facilities subject to the exclusion jurisdiction of the Public Utility Commission of Texas, a person which is approved by such Commission as consistent with Texas State law regarding an independent transmission organization.

“(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

“(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.

“(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access under relevant transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

SEC. 2406. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12)(B) of this Act, as amended by striking “or” at the end of clause (iv), by striking the period at the end of clause (v) and inserting “; or”, and by adding at the end the following new clause:

“(vi) the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge undue to the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to such taxable year beginning after the date of the enactment of this Act.

TITLE XV—ADDITIONAL PROVISIONS

SEC. 2501. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.

SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168M(g)(1) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2005”.

SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

“(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

“(2) the extent to which the credits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

(b) REPORT.—The Comptroller General of the United States shall report the analysis required under paragraph (a) not later than December 31, 2002, and annually thereafter.

SEC. 2503. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subchapter D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45M. ALASKA NATURAL GAS.

“(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

“(b) CREDIT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

“A $2.25, over

“(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

“(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 430(b)(3)(B) by substituting the calendar year ending before the date described in section 45M(g)(1) for 1999).

“(c) ALASKA NATURAL GAS.—For purposes of this section, the term ‘Alaska natural gas’ means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(l)), determined with respect to the North Slope of Alaska beginning with the effective date of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(l)).

“(d) RECAPTURE.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived

S3786 CONGRESSIONAL RECORD—SENATE May 1, 2002
from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(D) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—For purposes of this section, rules similar to the rules of paragraph (4) and subparagraphs (A) and (B) thereof shall be applied to the Alaska natural gas credit as if the Alaska natural gas credit were a credit for purposes of this chapter or for purposes of section 55.

"(B) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under this chapter for any taxable year shall be reduced by the amount of such credit attributable to such fuel.

(3) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake facility in which the Alaska natural gas is derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transport of such Alaska natural gas, and

"(C) except under section 39, shall be appropriately adjusted.

(4) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under this chapter for any taxable year shall be reduced by the amount of such credit attributable to such fuel.

(5) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer for purposes of determining the amount of any credit under this chapter shall be treated as being zero, and

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to dispositions made after December 31, 2006.

(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made after December 31, 2006.
SEC. 2506. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) No Waiver for Farm Owner, Tenant, or Operator Necessitated.—Subparagraph (B) of section 4240(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline purchased, such subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(b) Example of Fuel Used Between Airfield and Farm.—Section 4240(c)(4), as amended by section 2508, is amended by inserting at the end of the following new flush sentence: "For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms."

(c) Exemption from Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (a) of section 4240(c)(4) (relating to tax on air transportation of persons) is amended to read as follows:

"(a) Exemption from Tax for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the emergency, development, or reclamation of, hard minerals, oil, or gas;" and

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, harvesting, and sale of timber, or transportation of or caring for, trees (including logging operations), but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for the Agriculture Roadway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44513(b) or subsection (b) of section 44509(b).

"(B) accordance with the provisions of United States Code, during such use. In the event of a violation of such law or regulations, the application for exemption shall be revoked."

(d) EFFECTIVE DATE.—The provisions made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SEC. 2507. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Clause (ii) of section 4261(a)(1)(B) (defining rural airport) is amended by striking the period at the end of clause (ii) and inserting “, or” and by adding at the end the following new clause:

"(iii) that is not connected by paved roads to another airport.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

SEC. 2508. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

DIVISION I—Iraq Oil Import Restriction

TITLE XXVI—Iraq Oil Import Restriction

SEC. 2601. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the “Iraq Petroleum Import Restriction Act of 2002”.

(b) FINDINGS.—Congress finds that—

1. the Government of the Republic of Iraq—

(A) has failed to comply with the terms of the United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of UNSC Resolution 661, including destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all related major components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and its environs.

(C) has failed to adequately drain down upon the amounts received in the Escrow Account established by Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people;

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced “No-Fly Zones” in effect in the Republic of Iraq;

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in world markets, which in turn, threatens the economic security of the United States;

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians;

(G) further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. 2602. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 2603. TERMINATION/PRESIDENTIAL CERTIFICATION.

This title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that—

(1) Iraq is in substantial compliance with the terms of—

(A) UNSC Resolution 687; and

(B) UNSC Resolution 986 prohibiting smuggling of oil in violation of the “Oil-for-Food” program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli civilians;

(3) resuming the importation of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 2604. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are met. The President, after consultation with the appropriate committees of Congress, should ensure that all means are taken to provide for the economic security of the United States; the direct sale, donation or other transfer to appropriate nongovernmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

SEC. 2605. DEFINITIONS.

(a) COMMITTEE.—The term Committee means the Security Council Committee established by UNSC Resolution 661, including its successor or any successor established for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the United Nations Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 661.

(b) UNSC Resolution 661.—The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.


The prohibition on importation of Iraqi-origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

DIVISION J—MISCELLANEOUS PROVISION

SEC. 2701. FAIR TREATMENT OF PRESIDENTIAL JUDICIAL NOMINEES.

It is the sense of the Senate that in the interests of the administration of justice, the Senate Judiciary Committee should along with its other legislative and oversight responsibilities, continue to hold regular hearings on judicial nominations.

SEC. 2702. CORRECTION OF WRONGFUL PRINTING OF ACTION TAKEN ON S. RES. 109 ON TUESDAY, APRIL 30, 2002

The Senate proceeded to consider the resolution (S. Res. 109) designating the second Sunday in the month of December as “National Children’s Memorial Day” and the last Friday in the month of April as “Children’s Memorial Flag Day” which was reported with an amendment and an amendment to the title.

[omit the part in black brackets and insert the part printed in italic:] S. Res. 109

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from various causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical ingredients in the healing process of a family that is coping with and recovering from the loss of a loved one; and