House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 3, 2003, at 2 p.m.

Senate

Thursday, July 31, 2003

(Legislative day of Monday, July 21, 2003)

UNANIMOUS CONSENT AGREEMENT—H.R. 6

Mr. FRIST. Mr. President, we have three short unanimous consent requests. Senator Baucus will be taking the floor shortly.

I ask unanimous consent that following Senator BAUCUS’s statement and Senator DODD’s statement on free trade, the Senate then proceed to the consideration of Calendar No. 85. H.R. 6, the House-passed Energy bill, provided that all after the enacting clause be stricken and the text of the Senate amendment to H.R. 4 from the 107th Congress as passed by the Senate be inserted in lieu thereof; the bill then be read a third time and the Senate proceed to a vote on passage of the bill with no intervening action or debate; further, that following that vote, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees with the ratio of 7 to 6.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Reserving the right to object, I know the leadership on both sides of the aisle would like to proceed on last year’s Senate Energy bill. This Senator believes we have just begun to have debate on two important issues that have emerged since that legislation was passed by this body.

The first issue is we now know for a fact, proven by the Federal Regulatory Commission, by the Department of Justice, and by Enron’s own memos, that market manipulation has occurred. The 2002 Energy bill does not address that issue.

This body will need to come back and address that issue. I am happy to address it in another forum, but I am hearing a commitment from leadership in both sides that we will come back and address this issue.

The second issue: The Federal Regulatory Commission, since the passage of the 2002 act, issued a rule calling for the implementation of mandatory regional transmission organizations and standard market design. For my colleague who does not understand what that means, it means a national grid where your region’s cheap, affordable electricity at cost-based rates might be displaced by the highest bidder of an energy company that wants to sell its more expensive energy in your State.

The 2002 bill does not address that. We need to address the fact that we do not want FERC to proceed on an order mandating regional transmission organizations with standard market design. That is what some of my amendments dealt with; that is what some of the underlying bill dealt with. That is not in the 2002 version.

I will not object at this time based on agreement that I have heard from my leadership and the majority leadership that we will have an opportunity to address both of those issues in the future.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2739 AND H.R. 2738

Mr. FRIST. Mr. President, I ask unanimous consent that immediately following the vote on the passage of the Energy bill, all debate time be yielded back and the Senate proceed to a vote on passage of H.R. 2739, the Singapore bill, to be followed by a vote on passage of H.R. 2738, the Chile free-trade legislation.

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

UNANIMOUS CONSENT AGREEMENT—S. 139

Mr. FRIST. Mr. President, I ask unanimous consent that at a time determined by the majority leader, following consultation with the Democratic leader, the Environment and Public Works Committee be discharged from consideration of S. 139, the Climate Stewardship Act of 2002, and the Senate then proceed to its consideration; that the measure be considered on the following limitations:

That there be a total of 6 hours of debate on the bill and substitute amendment, with the time equally divided and controlled between the proponents and opponents; that the only amendment in order be a McCain-Lieberman substitute amendment, as specified in the debate time limitation; that upon the use or yielding back of all time, the Senate proceed to a vote on adoption of the amendment; that upon disposition of the amendment, the bill, as amended, be read the third time,
and without further intervening action or debate the Senate proceed to vote on passage of the bill.

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

Mr. FRIST. A discussion of what we have just done will take place later in the evening. The unanimous consent request means that Senator BAUCUS and Senator DODD will have their statements followed by a series of stacked votes. We will have at least three rolloff stacked votes, and then we will vote. Judge votes will be in consultation as to how many judge votes there will be. The plans will be to have a series of at least three rolloff stacked votes tonight.

The PRESIDING OFFICER. The Senator from Montana.

CHILE AND SINGAPORE FREE-TRADE AGREEMENTS

Mr. BAUCUS. Mr. President, I appreciate the work of the majority and minority leaders in putting this agreement together tonight. It sounds as if we will be able to get home for recess.

I will say a few words about the Chile and Singapore trade agreements. Today the Senate begins its debate on implementing the United States-Singapore and United States-Chile Free Trade Agreements.

Bringing these bills to the floor this month has been a priority for me, as I know it has been for Senator GRASSLEY. Timely passage will allow these two important agreements to go into effect as planned on January 1, 2004. And passage will user in a new era of enhanced economic ties between the United States and two important trading partners.

These are the first bills to come before the Senate under the renewed fast-track procedures adopted last year in the Trade Act of 2002. So before I discuss these agreements and the implementing bills in detail, I want to talk about the events that have brought us here today.

One year ago, the Senate passed the Trade Act of 2002 by a vote of 64 to 34. Among other important provisions, the Trade Act gave the President fast-track trade negotiating authority for 3 years, renewable for 2 more. Fast-track—or trade promotion authority, TPA, as it is sometimes called—is a contract between Congress and the administration. It allows the President to negotiate trade agreements with foreign trading partners with a guarantee that Congress will consider the agreement as a single package. No amendments are allowed and a straight up-or-down vote is guaranteed by a date certain.

In return, the President must pursue a list of negotiating objectives set by Congress. And he must make Congress a full partner in the negotiations by consulting with Members as the talks proceed.

Last year, as Chairman of the Finance Committee, I worked hard to pass the Trade Act and renew the President’s fast-track trade negotiating authority. In many cases, fast-track is an absolute necessity for completing new trade agreements. Our trading partners simply won’t put their best deals on the table if they know that Congress can come back and change the agreement later.

Getting those best offers on the table is critical. It not only provides jobs for American workers, a level playing field, more exports for our farmers, ranchers, and companies and more choices and lower costs for consumers.

That doesn’t mean our trade agenda should be held to the new and progressive standards set out by Congress. The Clinton Administration began negotiating the Singapore and Chile FTAs with the United States.

I believe, frankly, that we could pass the Singapore and Chile bills without fast-track as well. But having it certainly makes the process run smoothly.

That brings me to the two free trade agreements themselves.

I have long been a supporter of trade with Singapore and Chile. In 1999, I took a delegation of Montana business people to Chile to press the case directly. I have also visited Singapore with a Montana trade delegation.

Even before we passed the Trade Act last year, I introduced legislation to grant fast-track specifically for a Singapore or Chile free-trade agreement.

Negotiating these agreements took several years of work, under both the Clinton and Bush Administrations, many negotiating sessions, and hours of consultation. The agreements break new ground by using a “negative list,” where all services are subject to the agreements’ rules unless expressly excluded.

Particular achievements include enhanced access to the Singapore market for banking and other financial services, which is important because Singapore is a regional hub for southeast Asia’s emerging market access for services is critical, because the service sector now provides the majority of American jobs. Expanding services trade means more job opportunities.

The agreements include intellectual property rights obligations that exceed WTO levels. They set a high standard of protection for trademarks, copyrights, patents, and trade secrets that will support innovation and our country’s creative industries, and they establish a tough enforcement regime for piracy and counterfeiting.

The agreements extend free trade principles to electronic commerce—making sure protectionism cannot take root in the new frontier of trade.

Unlike NAFTA, which dealt with labor and environment in side agreements, the Singapore and Chile agreements include core chapters dedicated to these important subjects. It is an improvement.

Chile and Singapore incorporate the key Congressional objective that countries commit not to “fail to effectively enforce” their labor and environmental laws “through a sustained or recurring
course of action or inaction, in a man-
ner affecting trade.” This commitment is
enforceable through dispute settle-
ment.

The agreements also foster coopera-
tive projects to promote environmental
protection and workers’ rights. For ex-
ample, the United States will assist
Chile in building capacity for wildlife
protection and resource management
and to improve public information
about chemicals released by industrial
facilities.

The agreements establish a secure
and predictable legal framework that
covers all forms of investment, and in-
vestor rights are backed up with dis-
pute settlement procedures.

All core obligations of the agree-
ments, including environmental and
labor provisions, are subject to enforce-
ment through dispute settlement.
Panel proceedings must be open and
transparency that is totally new—
including public hearings, public release
of legal submissions, and the right of
third parties to submit views.

For the first time in a U.S. free trade
agreement, panels will be able to im-
pose monetary penalties in the first in-
stance. If those monetary penalties are
not paid, trade sanctions will be avail-
able as a back up.

There and those who see this use of
fines as a step back. In my view, it is
something worth trying, to see how
well it works.

The fine mechanism should allow for
a greater focus on cooperative prob-
lem-solving in resolving disputes. If it
doesn’t trade sanctions are still avail-
able.

Only experience can tell us how well
this system will work. Based on that
experience, we can reconsider a fines-
based system in future agreements if we
need to.

Finally, a word about trade laws.
Last year’s Trade Act instructed the
administration to “avoid agreements
that lessen the effectiveness” of U.S.
trade laws.

These agreements reflect that in-
struction. There are no provisions
weakening our antidumping or coun-
tervailing duty laws.

As in NAFTA, the President may ex-
clude Singapore from a global safe-
guard remedy in certain cir-
cumstances. This exception does not
apply to Chile.

At the same time, both agreements
strengthen the ability of American pro-
ducers to obtain safeguard relief—if
needed—by creating new bilateral safe-
guards, new textile and apparel safe-
guards, and a tariff snap-back safe-
guard for sensitive agricultural pro-
ducts for certain years.

Overall—these agreements cover a
lot of ground, and they do it well.

Does that mean that we now have the
perfect text for every future agree-
ment? Of course not. There is always
room for improvement in trade agree-
ments.

There is no one-size-fits-all solu-
tion—whether you are talking about
agriculture, intellectual property, en-
vironmental standards, or services.

That is why I feel strongly that every
new free-trade agreement needs to be
adapted to the particular cir-
cumstances of the partner country in-
volved. Some of the approaches taken
in the Singapore and Chile agree-
ments—in environment, labor, and ag-
ficulture, for example—simply may not
work for countries at different levels of
development or with different political
and social structures.

To some extent, these are issues for
another day. But I raise them today as
fair warning.

I think the consultation process
worked well for the Singapore and
Chile agreements, but we will need to
do even better on the CAFTA, Aus-
tralia, and other potentially controver-
sial agreements.

Otherwise, I believe both the ambitious negotiating sched-
ules and the chances of Congressional
approval for future agreements are at
serious risk.

Now I want to turn to the imple-
menting bills themselves.

These bills were prepared by the ad-
ministration in consultation with Fi-
cance Committee members and staff.
We have followed the sample coopera-
tive drafting procedures that were used
for the NAFTA, the Uruguay Round,
and other trade agreements considered
under fast-track.

I am satisfied with the results of this
process.

The two bills before us today are
very similar to each other and to the
Implementation Acts for NAFTA and
the U.S.-Jordan Agreement. They are
narrowly tailored to include only what
is necessary or appropriate to imple-
ment the agreements. Where there are
differences between the two bills, they
reflect different negotiated outcomes in
the two agreements.

I have worked hard to make sure
these draft bills meet two criteria.
First, the bills must accurately reflect
the agreements. Beyond, the bills must
preserve the prerogatives of Congress
over trade policy.

One of my main concerns in the
Singapore bill has been implementa-
tion of the Integrated Sourcing Initia-
tive, or ISI. I have worked to make
sure the bill narrowly reflects the pur-
pose of the ISI and does not provide un-
intended benefits to third countries.

The bill achieves that goal by assur-
ing that Congress will have a vote be-
fore the list of ISI products can be ex-
panded. I want to thank USTR and
Chairman GRASSLEY for working with
me to come up with language that does
the job.

I also had some concerns about
whether the ISI could create a loophole
in our economic sanctions and global
safeguard laws. I appreciate the Ad-
mnistration’s willingness to think cre-
atively and come up with language in
the Statement of Administrative Ac-
tion that will help avoid potential
problems.

Another concern—in both bills—has
been the role of Customs. A few months
ago, Chairman GRASSLEY and I came to
a temporary agreement with the Ad-
mnistration on how to divide author-
ity over Customs between the Depart-
ments of Treasury and Homeland Secu-
rit y.

A process is in place to review the
initial division of labor in the coming
year. So it is critical that nothing in
these bills changes the current division
or supersedes the review process.

Again—I appreciate the willingness of
Chairman GRASSLEY and the Admin-
istration to work with me on this issue.

Mr. President, the Singapore and
Chile free trade agreements are solid
agreements that will create economic
opportunities for Americans.

With the WTO talks in a stalemate
and FTAA talks bogging down, we need
to pursue bilateral and regional op-
tions to expand trade and grow our
economy. These agreements help
for farmers and ranchers.

A strong vote in favor of these agree-
ments will send all the right mes-
ages—to American workers, farmers
and businesses and also to our trading
partners—that the United States still
stands for trade liberalization. That
our trade agenda is on track. And that
the right kind of agreements will re-
ceive broad Congressional support.

Mr. President 1 year ago this week,
the Senate passed the Trade Act of
2002.

This was landmark legislation. It was
hard fought—it took the better part of
18 months to write and pass. It was far-
reaching—touching on many aspects of
our trade agenda. And it had support
across the political spectrum—espe-
cially in the Senate.

Among its many provisions, the
Trade Act improved and expanded the
Trade Adjustment Assistance program

On August 6, we reach the 1-year
mark for all these changes. So now is
a good time to take stock of what has
been accomplished so far.

Have the provisions of the Trade Act
been implemented in a timely fashion?
Are they working as Congress in-
tended? And what remains to be done?

In sum, what I am here to provide
today is a report card on the first year
of the Trade Act of 2002.

I am proud of all the work that went
into the Trade Act. And the part I am
most proud of is the historic improve-
ment and expansion of Trade Adjust-
ment Assistance.

We all know that expanding trade
is good for the economy as a whole. It
creates new export opportunities for
farmers and businesses. It generates
employment. It gives consumers more
choices and saves them money.

But trade liberalization is not always
good for individual workers. Inevi-
tably, some will lose their jobs.

Trade adjustment assistance is the
result of a promise first made to Am-
erican workers by President Kennedy.
promised workers that when our Government’s trade policy results in the loss of jobs, we will help dislocated workers retrain, retool, and learn the new skills that they need to return to the workforce. That promise has been consistently renewed by Congress ever since.

Last year’s Trade Adjustment Assistance Reform Act grew out of 40 years of experience with the TAA program. Many of the bill’s key reforms were suggested in comprehensive studies of the strengths and weaknesses done by the GAO and the Trade Deficit Review Commission.

What those reports told us was that there were some ways to make TAA work better. That meant expanding eligibility to cover more workers affected by trade. It meant expanding benefits to assure a more useful retraining experience, and it also meant tightening up the rules in some places to make sure that the program is operating responsibly.

The improved TAA program went into effect last November.

Primary workers who lose their jobs due to import competition continue to be eligible for assistance. But the new, expanded eligibility rules also make assistance available to secondary workers whose companies lose business supplying inputs to primary firms; and workers who lose their jobs when their companies shift production overseas.

Secondary workers are only secondary in the minds of academics who made up the term. The fact is that they suffer the same job loss for the same reason as primary workers. They deserve the same chance to retrain. Now, that is what they get.

In another improvement, workers can now get training and income support for up to 2 years. This is a key change from the old program, where income support ran out before training benefits.

That led many workers to drop out of training before they were done. Dropping out of training defeats the whole purpose of TAA, so this was a critical fix.

Another key fix was the addition of a health care benefit. One of the things that has kept workers out of TAA training in the past was their inability to maintain affordable health insurance for their families. Now TAA enrollees are given a 65 percent tax credit toward qualified health insurance expenses while in training.

Workers are also benefitting from a streamlined application process. The Trade Act combined the old TAA and NAFTA-TAA programs into one—so workers no longer have to apply twice under different rules.

Since last November, the Department of Labor has certified 1,242 TAA petitions, making 133,948 workers eligible to apply for TAA benefits. That includes workers from Stimson Lumber in Libby, MT, and Trout Creek Lumber in Trout Creek, MT. Our lumber industry in Montana has been hard hit by unfairly subsidized Canadian lumber. I hope there will be a long-term solution to this intractable problem that will stop the job losses. I know that getting TAA assistance is not the first choice for any of these workers. But at least it is something—and something much more useful now than it was before.

Most of last year’s reforms to TAA have been fully implemented and are working well. I want to thank Secretary Chao, Assistant Secretary for Education and Training, and the team at the Education and Training Administration for making this priority. Thanks to their planning and hard work, the Department of Labor has done an exemplary job getting the improved program off the ground.

Still, the work of implementing TAA reform is not done. There are at least four areas where more work lies ahead.

First, the Trade Act required the Department of Labor to process petitions for alternative TAA within 40 days. Slow TAA application approvals are a problem that has dogged the TAA program for years. Workers can’t get program benefits until their petitions are approved. I am glad to see that processing times are now down to 40 days rather than 60. Slow application approvals are a problem that has dogged the TAA program for years. Workers can’t get program benefits until their petitions are approved.

So far, however, no draft regulations on Alternative TAA are available. That means the public has not been able to comment on how the program might work. Outreach to potential enrollees cannot begin. And time is growing awfully short to get the States involved, even though they are on the front lines in running this program.

Alternative TAA is one of the most important innovations in the Trade Act. If it works, it could provide a whole new model for assisting dislocated workers. So Con-
TAA for Farmers up and running. I urge Secretary Veneman to do everything in her power to make sure that the program gets started in time to use the funds that Congress intended for our farmers in this fiscal year.

What has happened so far?

The first step is getting all the changes to TAA up and running. I hope that we are in the home stretch on that.

Then we need to start tracking results. Seeing how well the new, improved program is working. To that end, Senator Grassley and I have jointly asked the GAO to do an assessment of how well TAA has been working in the first year under the new law. We have to wait long enough for meaningful data to be collected. So that report is due out next summer, and I am looking forward to the results.

In the meantime, I will be keeping my eye on TAA. A few important issues to watch will be training funds. Was the increase in the Trade Act enough to meet increased enrollment?, and performance evaluation: Are DOL and the states cooperating to generate good data for tracking program participation and outcomes?

One other future action is TAA for Firms. This program, which operates out of the Department of Commerce, provides technical assistance to small and medium-sized companies that face layoffs due to import competition. The companies themselves chip in half the money to fund their adjustment plans. And they pay back the Federal share in tax revenues and foregone unemployment services when they succeed.

For many years, TAA for Firms has been chronically underfunded. A backlog of approved but unfunded adjustment proposals is building up in every State.

In order to begin reducing this backlog, in the Trade Act of 2002, Congress authorized TAA for Firms at an increased funding level of $16 million annually. The President’s budget for fiscal year 2004, however, proposes funding at only $13 million.

This is not enough, and I view it as unacceptable backsliding by the administration. I encourage our appropriators to fund this program fully at the authorized level of $16 million.

Aside from funding, I think the biggest step to effective operation of the TAA for Firms program is a pending proposal to change its management structure. This program works well under a small centralized management in Washington, supplemented by the excellent work of 12 regional Trade Adjustment Assistance Centers.

The program is not broken and does not need to be fixed. That is why I oppose the department’s plans to break the Washington office up into seven separate offices scattered around the country. It seems like an inefficient use of government resources that will only complicate oversight and jeopardize consistent decision-making.

This is not a partisan issue—it’s just good government.

That is why I have introduced S. 1120—a bill to move the TAA for Firms program to a different part of the Commerce Department, where it can continue to be centrally managed. The bill currently has 12 co-sponsors, and I urge my colleagues to support it.

In addition to TAA, there were, of course, several other very important provisions in the Trade Act of 2002.

Most significantly—Trade Promotion Authority.

After a lapse of 8 years, we were able to renew the fast-track procedures that allow the President to submit trade agreements to Congress for an up-or-down vote with no amendments. It is these very procedures that bring us to the floor today to debate, and ultimately vote on, the Singapore and Chile FTAs.

Some people say our trade agenda was stalled—or even dead—before we passed TPA. I strongly disagree.

We completed China and Taiwan’s WTO accessions. We passed AGOA, the Jordan FTA, and the TPA. And we reached a TAA trade agreement. We know from experience that good, strong trade bills with bipartisan support can pass the Congress even without fast-track.

But fast-track makes this more likely. And—particularly when we are negotiating complex agreements with large groups of countries in the WTO or FTTA—there is just no other way to get our trading partners to put their best deals on the table. They won’t show their bottom line if they think Congress can come back and renegotiate the deal.

So getting fast-track renewed is an important accomplishment. It lasts for 3 years—extendable to 5. I hope we use it well.

I want to see us use fast track to negotiate trade agreements that serve the commercial objectives of our farmers and businesses. Agreements that will create jobs for our workers and real value for consumers.

These are the kinds of agreements that will build domestic support for our trade agenda. With that support, our progress on trade will become self-reinforcing—and we will not need to worry about another lengthy lapse in fast-track.

For the last few months I have been working—together with Congressman Dooley and others—to reach out to businesses and argue with them that those interested in trade to hear their priorities for commercially meaningful trade agreements. I plan to continue this process and to consult closely with the administration on what I learn.

That leads me to just a few comments on consultation. The bills before us today are the first to be considered under the fast-track procedures approved last year. And one of the key refinements in the bill was to beef up the consultation process between the administration and Congress.

I want to thank Ambassador Zoellick and his staff for the efforts they have put into these consultations. Given the nature and pace of negotiations, there is always a balance to be struck between timely and meaningful consultation with Congress and quick turn-around by our negotiators. I hope they will continue their efforts to improve Congressional access to negotiating documents and keep the lines of communication open even when the pace of negotiations gets frantic.

I also want to commend both USTR and Senator Grassley and his staff for the drafting process for the Singapore and Chile bills. It was very cooperative. This is the way the informal drafting process is supposed to work under fast-track. I think it sets a good precedent as new agreements come down the road.

Finally, I want to turn to another part of the Trade Act—the renewal and expansion of the Andean Trade Preferences Act.

Early reports slow rising exports from ATPA countries to the U.S. in some of the new categories to receive benefits. Reports from USTR and the ITC indicate that ATPA continues to play a critical role in economic diversification and drug eradication efforts in the Andean region.

As always, that doesn’t mean our trade relationship with the region is trouble-free. For one thing, U.S. companies have a number of unresolved investment disputes with Andean countries. Even with the pressure USTR could bring to bear prior to ATPA renewal, we were not able to resolve them all. For example, Ecuador continues to deny VAT payment credits that it owes to American companies—despite continued promises at the highest levels of government.

Advancing the trade agenda through new agreements is important—but so is making sure that our trading partners are living up to the commitments they made to us. We should all be looking at ATPA again in a few years, and we need to keep our eyes on the region.

The Trade Act of 2002 was the most significant and far-reaching piece of trade legislation to come through the Congress in 14 years. I am proud to have played a central role in shaping it. Overall, my report card on implementation is pretty positive.

As implementation on TAA moves forward, I intend to continue monitoring the administration’s efforts and the impact that the program has on eligible workers. I also plan to continue working on trade legislation that advances our agenda of job creation and economic growth. There will be plenty of opportunities ahead.

I ask unanimous consent to have printed in the record a revenue table and the committee report at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BAUCUS. Mr. President, this amendment reflects the energy tax incentives reported out by the Finance Committee in April. The incentives in this amendment enjoy broad support, across the political spectrum.

These tax incentives are also very similar to those in last year's energy tax bill. In April of last year, they won overwhelming support on the Senate floor.

I was disappointed that the conference did not resolve an agreement on the larger energy package last year. I am hopeful that this year, we will see these provisions signed into law.

Before explaining the specific incentives proposed in this amendment, let me first take a few moments to address the nature of the energy challenge facing the nation.

The last few years have seen energy crises, characterized by energy supply shortages and price spikes. We saw rolling blackouts in the State of California. Energy price jolts affected nearly all Americans. Energy-related disruptions were widespread and severe.

Folks back in my home state of Montana have been particularly hard hit. Many people in Montana have to drive great distances just to get to work. And high gas and energy prices raise the costs of doing business for small businesses, farmers, and ranchers, alike.

Today, we face continued uncertainty in world energy markets. Earlier this year, energy prices soared to record levels. This was due, in part, to uncertainty over the war in Iraq. And it was also due, in part, to the colder-than-average winter.

Natural gas markets raise growing concerns. This May, Federal Reserve Chairman Alan Greenspan predicted that growing demand for natural gas and limited supplies would continue to raise natural gas prices. Chairman Greenspan said that this situation could put American companies at a disadvantage relative to their overseas competitors.

Since then, natural gas prices have continued to climb. Today, natural gas prices are nearly double last year's levels. A year ago, natural gas prices across the nation averaged about $3 per thousand cubic feet. This year, during the last three days of June, trading on the New York Mercantile Exchange pushed prices to an average of $5.98 per thousand cubic feet.

Natural gas is a key input and cost of doing business in the manufacturing sector. Manufacturing is very energy-intensive. Manufacturers use energy to heat factories, to heat boilers to make steam and produce electricity to run machines. Manufacturing accounts for nearly one-half of the nation's natural gas use.

High gas prices place additional competitive pressures on these businesses. The National Association of Manufacturers reports that rising energy costs are causing many companies to close their operations. Slowing manufacturing sector accounts for much of the current weakening in our economy. And this means that hard-working Americans are losing jobs—high-paying jobs—that often move overseas.

Rising natural gas prices also affect American consumers. The Department of Energy predicts that household bills will be about 20 percent higher this winter than last year.

Gasoline prices have also-raised concerns. Last year at this time, the national average retail price for regular gasoline was about $1.40 per gallon. Earlier this year, prices peaked at almost $2 per gallon. Last week's average price was $1.52 per gallon. The Department of Energy expects prices to remain at this higher level throughout the year. This volatility in U.S. gas prices has a sharp economic effect, disrupting businesses and lives.

The average U.S. household uses about 1,100 gallons of gasoline a year in their cars. Thus the increase in gas prices over last year means that an average household is paying $132 more a year just for their car's gasoline. And because gas prices peaked at almost $1.70 per gallon earlier this year, the actual increase in household spending on gasoline was much greater.

Such a cost difference can have severe effects on businesses. Consider a business that relies primarily on trucking services for shipping its products. For these companies, even modest price volatility can break the business. A typical gallon of regular gasoline and natural gas markets is not promising. The Department of Energy projects that during the next 20 years, world oil demand will increase by more than 50 percent, from 76 million barrels per day in 2000 to nearly 120 million barrels per day in 2020.

The more reliant we are on petroleum products, the more that oil price fluctuations will affect us. And continued political uncertainty and the threat of terrorism will worsen this vulnerability.

To address these energy challenges, the Energy Committee has designed the underlying bill. And to contribute to these efforts, earlier this year, the Finance Committee marked up a bill providing tax incentives to support these broader energy policy objectives. Those incentives are reflected in the pending amendment.

The Finance Committee amendment consists of a balanced package of targeted incentives directed to alternative energy, traditional energy production, and energy efficiency.

The amendment would accomplish its goals in three main ways:

First, it would encourage new energy production, especially production from renewable sources.

Second, it would encourage the development of new technology.

And third, it would encourage energy conservation.

Production, technology, and conservation. Let me explain each in turn. New energy production is critical. The level of U.S. energy production directly affects our dependence on foreign sources of energy. If we can increase U.S. energy production faster than demand, we can become less reliant on foreign energy. The opposite, however, is taking place.

As this chart shows, through 2020, America's energy use is increasing more rapidly than domestic energy supplies. We rely more heavily on foreign sources of energy that are increasing.

Here is how we address the problem: Through targeted incentives, this amendment would encourage the development of both traditional and alternative sources of production, thereby boosting our overall energy resources. This will help promote American energy independence, which will contribute to both greater economic growth and national security.

The use of tax incentives to promote energy development stretches back to the enactment of the income tax in 1916, with tax incentives for the production of oil and gas. And in 1934, we created credit for renewable fuels and conservation.

This amendment would provide tax incentives for the development of renewable resources and alternative fuels. Renewables provide cleaner, safer alternatives to our reliance on more nuclear facilities.

This amendment would extend the wind and biomass credit for an additional 5 years. And the amendment would qualify many more sources—geo-thermal, solar, plant life, and others—as renewable fuel sources.

At the same time, we recognize that the U.S. will continue to rely on oil, gas, and coal production. To further boost production, the amendment would create a new credit for oil and gas production from marginal wells. And the amendment would simplify cost recovery of geological and geophysical expenditures. The amendment would also include several tax incentives that would help the oil and gas industry to bring supply to market.

While this amendment would thus support exploration and production of more traditional resources, it would also encourage cleaner use of these fuels.

For example, the amendment includes several incentives to encourage electric utilities to invest in technologies that will make their coal-fired power plants cleaner-burning and more efficient. This will help us burn coal a more environmentally-friendly energy source into the future, even as we look for alternatives.
Energy sector activities are often front and center in environmental debates. Congress needs to consider environmental concerns when crafting its energy legislation. By carefully targeting our tax incentives, we can encourage more environmentally-friendly activities, such as the use of renewable resources and the transition towards cleaner, more-efficient technologies.

Let me turn to the second key element of the amendment: new technology. New technology can be the cornerstone of energy independence and cleaner energy. In the future, electricity, new and alternative fuels, and fuel cells will power our cars.

But to get there, we will need substantial investments to create the building blocks for future technologies. Why? Because today's transportation sector is 97 percent reliant on petroleum-based fuel. That's right. 97 percent.

We need a lot of change to make the transportation sector cleaner and more fuel-efficient. We need to make significant investments to bring about this change.

In addition, we need to promote the use of cleaner, more-efficient technologies throughout the energy sector. Such state-of-the-art technologies are often more expensive than more-traditional technologies. Tax incentives help to bridge the gap in cost between these cleaner technologies and traditional technologies.

Here is what we do.

We create tax credits for the purchase of new technology vehicles. These vehicles of the future will be powered by alternative fuels, fuel cells, and by electric batteries.

We also provide tax credits for the purchase of hybrid vehicles, which run partly on electricity and partly on gasoline.

What is so great about these vehicles? Well for starters, fuel cell and electric vehicles are zero-emissions vehicles. And hybrid and alternative fuel vehicles can speed us toward the development of these zero-emissions vehicles.

And each of these vehicle types can significantly improve fuel economy and energy independence. To make sure, we provide certain tax credits only if the vehicle achieves large improvements in fuel economy.

Many new vehicle technologies require new fuels and infrastructure to deliver those fuels. Therefore, the amendment provides tax incentives for the installation of new-technology refueling stations and for the purchase of alternative fuels.

We also have developed a number of incentives to promote the use of cleaner-burning, state-of-the-art technologies throughout the energy sector. We create incentives for clean coal. Under the amendment, if you retrofit to use currently available clean coal technology, you are eligible for a production tax credit. If you use advanced technology, you are eligible for both an investment credit and a production credit.

Investing in these cleaner-burning technologies in the coal and transportation sectors will have positive long-term environmental effects, particularly for air quality.

Other incentives will promote the development of renewable energy technology. These and other tax incentives will help advance further technological development. This will have a long-term stimulative effect on America's economy.

The third key element of the amendment is conservation. Just as much as new production, conservation promotes energy independence. It also helps reduce pollution and thereby improve our health and the environment in the longer term.

In crafting these incentives, we have struck a balance between production and conservation. Increasing conservation—reducing energy consumption—will help reduce our reliance on foreign sources of energy.

And tax incentives can be effective means of encouraging conservation. A couple of years back, Economist Kevin Hassett told the Committee that "a 10 percentage point credit would likely increase the probability of investing in conservation—by about 24 percent."

The amendment includes several incentives to encourage businesses and homeowners to use energy-efficient equipment, building materials, and appliances. These tax incentives can make the difference, as such products tend to be more expensive than more-traditional products and materials.

As Energy Secretary Abraham said during a tour of the National Renewable Energy Laboratory in Golden, Colorado, earlier this month: Americans can help mitigate an expected natural-gas shortage during the coming year by reducing energy use and adopting efficiency measures for heating and cooling homes and offices.

The amendment would give a tax credit to reduce the cost of the energy-efficient technology, enabling individuals to purchase energy-efficient refrigerators and other appliances.

The amendment would also empower individuals with more complete energy consumption information by encouraging metering devices. These types of metering devices allow people to make more-informed decisions about the use of energy and thereby save energy in their homes.

Over time, the benefits of tax investments in energy conservation will reduce monthly energy bills. These cost savings can have the same economic effect as a tax cut—more dollars in the hands of American families.

Those are the three key elements of the amendment. New production, new technology, and conservation.

The amendment includes other important provisions. One in particular is electric utility restructuring. This is important for investor-owned utilities, municipal utilities, and cooperatives, like those back in Montana.

Other provisions address nuclear decommissioning funds and the treatment of cooperatives.

Finally, these tax provisions address market inefficiencies by providing a real economic benefit for engaging in more environmentally-sensitive activities. In short, this amendment is good environmental policy and good energy policy.

This is a good amendment. It is a package of tax incentives that are important in their own right and that will complement the broader energy bill. It will provide a key component of our emerging environmental and energy policies.

I support Chairman Grassley's position that this amendment generally should represent the position of the Finance Committee and the Senate during conference negotiations of the Energy Bill.
### Oil and Gas Provisions:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Natural gas gathering pipelines treated as 7-year property.</td>
<td>ppisa DOE</td>
<td>-3</td>
<td>-5</td>
<td>-8</td>
<td>-12</td>
<td>-41</td>
<td>-49</td>
<td>-58</td>
<td>-66</td>
<td>-77</td>
<td>-88</td>
<td>-69</td>
<td>-407</td>
</tr>
<tr>
<td>3. Expensing of capital costs incurred and credit for production in complying with Environmental Protection Agency sulfur regulations for small refiners.</td>
<td>epoa j/03</td>
<td>-9</td>
<td>-7</td>
<td>-8</td>
<td>-12</td>
<td>-27</td>
<td>-52</td>
<td>-62</td>
<td>-70</td>
<td>-81</td>
<td>-91</td>
<td>-63</td>
<td>-125</td>
</tr>
<tr>
<td>4. Determination of small refiner exception to oil depletion deduction—modify definition of independent refiner from daily maximum run less than 50,000 barrels to average daily run less than 60,000 barrels.</td>
<td>tyea DOE</td>
<td>-6</td>
<td>-7</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
<td>-8</td>
</tr>
<tr>
<td>5. Extension of suspension of 100% of taxable income limit with respect to marginal production (through 12/31/06).</td>
<td>DOE</td>
<td>-3</td>
<td>-5</td>
<td>-8</td>
<td>-12</td>
<td>-41</td>
<td>-49</td>
<td>-58</td>
<td>-66</td>
<td>-77</td>
<td>-88</td>
<td>-69</td>
<td>-407</td>
</tr>
<tr>
<td>6. Amortize all geological and geophysical (“G&amp;G”) expenditures over 2 years.</td>
<td>cpoii tyba DOE</td>
<td>234</td>
<td>212</td>
<td>449</td>
<td>428</td>
<td>320</td>
<td>261</td>
<td>226</td>
<td>194</td>
<td>188</td>
<td>194</td>
<td>1,175</td>
<td>-2,238</td>
</tr>
<tr>
<td>7. Amortize all low rent payments over 2 years.</td>
<td>apoi tyba DOE</td>
<td>85</td>
<td>11</td>
<td>-64</td>
<td>-62</td>
<td>-35</td>
<td>-9</td>
<td>-1</td>
<td>-1</td>
<td>-1</td>
<td>-1</td>
<td>-1</td>
<td>-1</td>
</tr>
</tbody>
</table>

### Conservation and Energy Efficiency Provisions:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Business credit for construction of new energy efficient homes.</td>
<td>ppb DOE &amp; 12/31/07</td>
<td>-63</td>
<td>-102</td>
<td>-98</td>
<td>-108</td>
<td>-68</td>
<td>-21</td>
<td>-4</td>
<td>-4</td>
<td>-4</td>
<td>-4</td>
<td>-4</td>
<td>-46</td>
</tr>
<tr>
<td>2. Credit for energy efficient appliances.</td>
<td>apb DOE &amp; 12/31/07</td>
<td>-58</td>
<td>-82</td>
<td>-68</td>
<td>-46</td>
<td>-23</td>
<td>-8</td>
<td>-2</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>-277</td>
</tr>
<tr>
<td>4. Business tax incentives for qualifying fuel cells and microturbines (sunset 12/31/08).</td>
<td>ppisb DOE &amp; 12/31/07</td>
<td>-5</td>
<td>-9</td>
<td>-14</td>
<td>-9</td>
<td>-4</td>
<td>-3</td>
<td>-1</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>-43</td>
</tr>
<tr>
<td>5. Allowance of deduction for certain energy efficient commercial building property.</td>
<td>tyba DOE &amp; ccb 1/1/07</td>
<td>-28</td>
<td>-51</td>
<td>-74</td>
<td>-101</td>
<td>-130</td>
<td>-139</td>
<td>-41</td>
<td>10</td>
<td>9</td>
<td>8</td>
<td>-365</td>
<td>-537</td>
</tr>
<tr>
<td>b. Water submetering devices (sunset for property placed in service after 12/31/07).</td>
<td>ppisa DOE</td>
<td>-4</td>
<td>-11</td>
<td>-21</td>
<td>-31</td>
<td>-24</td>
<td>-1</td>
<td>12</td>
<td>15</td>
<td>11</td>
<td>5</td>
<td>-91</td>
<td>-48</td>
</tr>
<tr>
<td>7. Energy credit for combined heat and power system property.</td>
<td>ppisa DOE &amp; ppisb 1/1/07</td>
<td>-68</td>
<td>-79</td>
<td>-78</td>
<td>-51</td>
<td>-24</td>
<td>-11</td>
<td>-1</td>
<td>4</td>
<td>6</td>
<td>6</td>
<td>-300</td>
<td>-296</td>
</tr>
</tbody>
</table>

### Total of Conservation and Energy Efficiency Provisions:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>-320</td>
<td>-486</td>
<td>-534</td>
<td>-550</td>
<td>-396</td>
<td>-196</td>
<td>-21</td>
<td>55</td>
<td>48</td>
<td>33</td>
<td>-2,290</td>
<td>-2,370</td>
</tr>
</tbody>
</table>

### Clean Coal Incentives—Investment and Production Credits for Clean Coal Technology:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Credit for production of electricity from qualifying advanced clean coal technology units.</td>
<td>pa DOE</td>
<td>-4</td>
<td>-17</td>
<td>-36</td>
<td>-55</td>
<td>-70</td>
<td>-96</td>
<td>-132</td>
<td>-153</td>
<td>-162</td>
<td>-168</td>
<td>-183</td>
<td>-865</td>
</tr>
</tbody>
</table>

### Total of Clean Coal Incentives—Investment and Production Credit for Clean Coal Technology:

|-----------|------|------|------|------|------|------|------|------|------|------|---------|---------|
### ESTIMATED REVENUE EFFECTS OF MODIFICATIONS TO S. 1149, THE “ENERGY TAX INCENTIVES ACT OF 2003,” FOR CONSIDERATION ON THE SENATE FLOOR—Continued

[Fiscal years 2004-2013, in millions of dollars]

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Extension and modification of section 27 credit for facilities placed in service after the date of enactment and before 1/1/07, including viscous oil, coalmine gas, agricultural and animal waste, and refined coal; extension and modification of section 29 credit for certain coal gasification and coke production from 1/1/05 through 12/31/05; clarification of definition of landfill gas facility; study of coal bed methane; for new facilities described in section 29 (c)(1)(A) &amp; (B), credit rate is equal to $0.00 Barre of Oil Equivalent; and 200,000 cubic feet per day limit.</td>
<td>DOE</td>
<td>-189</td>
<td>-134</td>
<td>-509</td>
<td>-601</td>
<td>-469</td>
<td>-230</td>
<td>-50</td>
<td>- ( )</td>
<td>-2,083</td>
<td>-2,363</td>
<td></td>
</tr>
<tr>
<td>a. Credit for Alaska Natural Gas:</td>
<td>generally oia DOE</td>
<td>-7</td>
<td>-1</td>
<td>-1</td>
<td>-2</td>
<td>-3</td>
<td>-4</td>
<td>-5</td>
<td>-5</td>
<td>-6</td>
<td>-7</td>
<td>-31</td>
</tr>
<tr>
<td>b. Treat certain Alaska pipeline property as 7-year property.</td>
<td>No Revenue Effect</td>
<td>-150</td>
<td>-150</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Modification to special rules for nuclear decommissioning costs—transfer of non-qualified funds (buyer gets deduction over live of plant); eliminate costs of non-qualified service; and clarify treatment of fund transfers.</td>
<td>tyba DOE</td>
<td>-8</td>
<td>-18</td>
<td>-21</td>
<td>-23</td>
<td>-25</td>
<td>-27</td>
<td>-30</td>
<td>-33</td>
<td>-35</td>
<td>-38</td>
<td>-95</td>
</tr>
<tr>
<td>2. Treatment of certain income of electric cooperatives.</td>
<td>ta DOE</td>
<td>-1,321</td>
<td>-1,183</td>
<td>-1,273</td>
<td>-817</td>
<td>-476</td>
<td>1,013</td>
<td>1,033</td>
<td>1,012</td>
<td>818</td>
<td>560</td>
<td>4,118</td>
</tr>
<tr>
<td>1. Extension of accelerated depreciation and wage credit benefits for businesses on Indian reservations (through 12/31/06).</td>
<td>DOE</td>
<td>2</td>
<td>-172</td>
<td>-290</td>
<td>-104</td>
<td>21</td>
<td>72</td>
<td>113</td>
<td>92</td>
<td>50</td>
<td>6</td>
<td>-543</td>
</tr>
<tr>
<td>2. Study of effectiveness of certain provisions by GAO</td>
<td>No Revenue Effect</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Modify research credit with respect to energy research.</td>
<td>ea DOE</td>
<td>-3</td>
<td>-7</td>
<td>-4</td>
<td>-2</td>
<td>-1</td>
<td>-1</td>
<td>- ( )</td>
<td>-18</td>
<td>-18</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Notes

1. Gain of less than $1 million.
2. Loss of less than $500,000.
3. This provision may also have indirect effects on federal outlays for certain farm programs. Outlay effects will be estimated by the Congressional Budget Office.
4. This is a preliminary estimate of the revenue effects of this provision. This preliminary estimate assumes that all of the ethanol and biodiesel subsidies would be provided through tax credits and refunds and income tax credits. If a portion of the subsidies is obtained in the form of outlay payments, the overall budget effect could be significantly greater than this preliminary estimate of revenue effects. The outlay effects of this provision will be estimated by the Congressional Budget Office.
5. Gain of less than $500,000.
6. Qualified facilities would be given credit for three years of production (five years in the case of refined coal).
7. Effective the later of January 1, 2003, or date of initial interstate transportation of qualifying gas.
8. Extension and modification of section 27 credit for facilities placed in service after the date of enactment and before 1/1/07, including viscous oil, coalmine gas, agricultural and animal waste, and refined coal; extension and modification of section 29 credit for certain coal gasification and coke production from 1/1/05 through 12/31/05; clarification of definition of landfill gas facility; study of coal bed methane; for new facilities described in section 29 (c)(1)(A) & (B), credit rate is equal to $0.00 Barre of Oil Equivalent; and 200,000 cubic feet per day limit.
9. Effective dates for provisions relating to reportable transactions and tax shelters: the credit for facilities placed in service after the date of enactment and before 1/1/07, including viscous oil, coalmine gas, agricultural and animal waste, and refined coal; extension and modification of section 29 credit for certain coal gasification and coke production from 1/1/05 through 12/31/05; clarification of definition of landfill gas facility; study of coal bed methane; for new facilities described in section 29 (c)(1)(A) & (B), credit rate is equal to $0.00 Barre of Oil Equivalent; and 200,000 cubic feet per day limit.
10. Provisions relating to Alaska Natural Gas: Credit for Alaska Natural Gas; Treat certain Alaska pipeline property as 7-year property.

### Legend for "Effective" column:
- a. Outlay payments made or incurred in DC construction completed by: cpio = costs paid or incurred in 2002; ent = necessity of enactment; awxsp = electricity sold from qualifying facilities after; ff = fuel sold after; oia = obligation issued after; pa = production after; ppp = property purchased between; ppisa = property placed in service after; ppisb = property placed in service before.

**Note:** Details may not add to totals due to rounding. Date of enactment is assumed to be November 1, 2003.
EXHIBIT 2
[COMMITTEE PRINT]
TECHNICAL EXPLANATION OF THE
ENERGY TAX INCENTIVES ACT OF 2003
I. LEGISLATIVE BACKGROUND

The Senate Committee on Finance Marked up an original bill, S. 2158, on April 2, 2003. After a quorum present, ordered the bill favorably reported by a voice vote on that date.

NOTE: This bill was converted into Senate Amendment 1424.

TITLE I—RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

A. EXPLANATION OF MODIFICATION OF THE SECTION 45 ELECTRICITY PRODUCTION CREDIT

Present Law

An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified “closed-loop” biomass, or qualified poultry waste facilities (sec. 45). The amount of the credit is 1.5 cents per kilowatt hour (indexed for inflation) for the credit reduced tax (rate) multiplied by one half the amount of energy produced in any period after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1994, and before January 1, 2004. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other similar transactions.

The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004. The credit is reduced for wind energy produced by, or closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1994, and before January 1, 2004. The credit is allowable for production during the 10-year period after a facility is originally placed in service. In order to qualify for the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party. In the case of a poultry waste facility, the taxpayer may claim the credit as a lessee-operator of a facility owned by a governmental unit.

Closed-loop biomass is plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include waste materials (including, but not limited to, scrap wood, manure, and municipal solid waste). The credit is also not available to taxpayers who use standing timber to produce electricity. Poultry waste means poultry manure and litter, including bedding materials, straw, rice hulls, and other bedding material for the disposition of manure.

The credit for electricity produced from wind, closed-loop biomass, or poultry waste is a component of the general business credit (sec. 38(b)(8)). The credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer’s net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000, or (2) the tentative minimum tax. For credits arising in taxable years beginning after December 31, 1997, an unused general business credit generally may be carried back one year and carried forward 20 years (sec. 39).

To coordinate the carryback with the period of application for this credit, the credit for electricity produced from closed-loop biomass facilities may not be carried back to a tax year ending before 1993 and the credit for electricity produced from wind energy may not be carried back to a tax year ending before 1994 (sec. 39).

For a facility placed in service after the date of enactment, the ten-year credit period commences when the facility is placed in service. In the case of a biomass facility originally placed in service before the date of enactment, the ten-year credit period is reduced to a five-year period and commences after December 31, 2003, and the otherwise allowable 1.5 cent-per-kilowatt-hour credit is reduced to a 1.2 cent-per-kilowatt-hour credit.

The provision modifies present law to provide that qualifying closed-loop biomass facilities include any facility originally placed in service before December 31, 1992 and modified to close-loop biomass facility after December 31, 1992, to co-fire with coal, to co-fire with coal and other biomass, or to co-fire with coal and other biomass, before January 1, 2007. The taxpayer may claim credit for electricity produced from qualifying facilities with the credit amount equal to the otherwise allowable credit multiplied by the ratio of the thermal content of the closed loop biomass fuel burned in the facility to the thermal content of all fuels burned in the facility.

Qualifying geothermal energy facilities are facilities using geothermal energy during a period to produce electricity that are placed in service after the date of enactment and before January 1, 2007. Qualifying solar energy facilities are facilities using solar energy during a period to produce electricity that are placed in service after the date of enactment and before January 1, 2007. The provision also defines six new qualifying facilities: facilities that use other renewable energy sources or facilities that use other renewable energy sources in addition to wind, closed-loop biomass fuels with coal, with other biomass, or with coal and other biomass.

The provision extends the placed in service credit (1.8 cents per kilowatt hour) for electricity produced from facilities placed in service after the date of enactment and before January 1, 2007. A biosolids and sludge facility is a facility that produces electricity through biological treatment of organic waste. A qualified biosolids and sludge facility is a facility that generates electric power through a process that uses the waste heat from the incineration of the organic material in the biological treatment process to produce steam and electricity. A qualified sludge facility is a qualified geothermal facility that produces electricity through the use of geothermal energy during a period to produce electricity that are placed in service after the date of enactment and before January 1, 2007. A Qualified small irrigation power facility is a facility that generates electric power through an irrigation system canal or ditch without any dam or impoundment of water. The installation capacity of a qualified facility is less than five megawatts.

A qualified small irrigation power facility includes facilities placed in service after the date of enactment and before January 1, 2007. A biosolids and sludge facility is a facility that uses the waste heat from the incineration of the biosolids and sludge to produce electricity. For example, if the taxpayer conveys biosolids and sludge into a glass furnace for the purpose of stabilizing the inorganic components of the biosolids and sludge in an amorphous glass matrix (and potentially selling the resulting glass aggregates), and the taxpayer uses the waste heat from the glass furnace to generate steam to power a turbine and produce electricity, the electricity produced would be from a qualified biosolids and sludge facility. In addition, a qualified biosolids and sludge facility is a facility for which the taxpayer has not claimed credit as a qualified facility placed in service.

Municipal solid waste facilities (or units) are facilities (or units) that burn municipal solid waste (garbage) to produce steam to drive a turbine for the production of electricity. Qualified municipal solid waste facilities (or units) include facilities (or units) placed in service after the date of enactment and before January 1, 2007. In the case of qualifying municipal solid waste facilities (or units), taxpayers may claim the otherwise allowable credit for the five-year period commencing when the facility (or unit) is placed in service.

A biorefinery is defined as a facility that uses corn grain, sugarcane, hemicellulose, and cellulose from wood to produce other renewable fuels and chemicals. For a facility placed in service after the date of enactment, the ten-year credit period commences when the facility is placed in service. In the case of a facility originally placed in service before the date of enactment, the ten-year credit period is reduced to a five-year period and commences after December 31, 2003, and the otherwise allowable 1.5 cent-per-kilowatt-hour credit is reduced to a 1.2 cent-per-kilowatt-hour credit.

The provision modifies present law to provide that if qualified facilities include any facility that produces electricity from corn, sugarcane, hemicellulose, and cellulose from wood.

II. TECHNICAL EXPLANATION OF THE PROVISION

The Committee believes that the extension of the placed in service credit for electricity produced from facilities placed in service after the date of enactment and before January 1, 2007, is important to ensure that the credit is provided for facilities that are able to enter the market with alternative sources of electricity. The Committee believes the credit amounts for years after 2003 are unworkable.

Because tax-exempt persons such as public power systems and cooperatives provide a form of implicit subsidy to these facilities, the Committee believes it is important to provide the incentive for production from renewable resources. The Committee believes that the credit should not be allowed for any period in which the otherwise allowable credit is less than 0.8 cents per kilowatt hour.

Lastly, the Committee believes that certain pre-existing facilities should qualify for the section 45 production credit, albeit at a reduced rate. These facilities previously received explicit subsidies, or implicit subsidies provided through rate regulation. In a deregulated electricity market, these facilities are pollution free, they do address environmental concerns related to waste disposal, and in addition, these potential sources further diversify the nation’s energy supply.

In the current electricity market, the Committee believes that a subsidy via a tax credit of 1.8 cents per kilowatt hour is not sufficient to ensure sufficient competitive advantage to these facilities. Therefore, the Committee believes it is important to provide the incentive for production from renewable resources to these persons in addition to taxable persons.

The provision extends the placed in service date for such facilities to bring more wind and closed-loop biomass facilities to service. The credit is reduced for grants, tax-exempt bonds, subsidized energy financing, and other similar transactions.

The period of application for this credit, the credit for electricity produced from closed-loop biomass facilities may not be carried back to a tax year ending before 1993, and the credit for electricity produced from wind energy may not be carried back to a tax year ending before 2004 (sec. 39).

Reasons for Change

The Committee recognizes that the section 45 production credit has fostered additional energy generation capacity in the form of non-polluting wind power. The Committee believes it is important to continue this tax credit by extending the placed in service date for a closed-loop biomass facility to the date of enactment and before January 1, 2007. The Committee also believes it is important to extend the placed in service date for facilities that use other renewable energy sources or facilities that use other renewable energy sources in addition to wind, closed-loop biomass fuels with coal, with other biomass, or with coal and other biomass.

The Committee also believes it is important to continue this tax credit by extending the placed in service date for a closed-loop biomass facility to the date of enactment and before January 1, 2007. The Committee believes it is important to continue this tax credit for electricity produced from other renewable energy sources or facilities that use other renewable energy sources in addition to wind, closed-loop biomass fuels with coal, with other biomass, or with coal and other biomass.
resources, solid wood waste materials, or agricultural sources. Eligible forest-related resources are mill and harvesting residues, precommercial thinnings, slash, and brush. Solid wood waste materials include waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimming. Agricultural sources include orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues. However, qualifying biomass for purposes of this provision does not include municipal solid waste (garbage), gas derived from biodegradation of solid waste, or paper that is commonly recycled. Agricultural waste nutrients are defined as livestock manure and litter, including bedding material for the following animals: beef, dairy, swine, sheep among others.

Geothermal energy is energy derived from a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). A geothermal deposit which is a geothermal reservoir for the production of geothermal electricity, and which is located and operated to produce geothermal electricity, is a geothermal deposit that will qualify for the tax credit as a source of geothermal energy.

Biosolids and sludge are the residue or solids removed during the treatment of commercial, industrial, or municipal wastewater.

Municipal solid waste is "solid waste" as defined in section 2(7) of the Solid Waste Disposal Act.

The provision provides that certain persons (public power systems, electric cooperatives, rural electric cooperatives, and Indian tribes) sell, trade, or assign to any taxpayer or any entity that would otherwise be allowable to that person, if that person were a taxpayer, for production of electricity from a qualified facility owned by such person. However, any credit under the act for property that may only be sold, traded, or assigned once. Subsequent transfers are not permitted. In addition, any credits that would otherwise be attributable to such person, to the extent provided by the Administrator of the Rural Electrification Administration, may be apportioned to a payment to certain loans or obligations undertaken by such person under the Rural Electrification Act.

In the case of qualifying open-loop biomass facilities, qualifying closed-loop biomass facilities, modified to use closed-loop biomass to co-fire with coal, with other biomass, or with coal and other biomass, and qualifying municipal solid waste facilities, the provision permits a lessee or operator to claim the credit in lieu of the owner of the facilities.

Lastly, the provision repeals the present-law reduction in allowable credit for facilities for which exempt biomass property with certain loans received under the Rural Electrification Act of 1936. In the case of qualifying closed-loop biomass facilities and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with coal and other biomass, the provision repeals the present-law reduction in allowable credit for facilities that receive any subsidy.

**Effective Date**

The provision generally is effective for electricity produced and sold from qualifying facilities after the date of enactment. For electricity produced from qualifying open-loop biomass facilities originally placed in service prior to the date of enactment, the provision is effective January 1, 2004.

### Title II—Alternative Motor Vehicles and Fuel Incentives

#### A. Modifications and Extensions of Provisions Relating to Electric Vehicles, Clean Fuel Vehicles, and Clean-Fuel Vehicle Refueling Property

(See secs. 201, 202, 203, and 204 of the bill and secs. 30 and 179A and new secs. 30B, 30C, and 40A of the Code)

**Present Law**

Electric vehicles

A 10 percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000 (see sec. 30). A qualified electric vehicle is a motor vehicle that is powered primarily by electric motors, drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, the original use of which qualifies the taxpayer, and that is acquired by the use for the taxpayer and not for resale. The full amount of the credit is available for purchases prior to 2002. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

Clean-fuel vehicles

Certain costs of qualified clean-fuel vehicles may be deducted when such property is placed in service (see sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol, or oxygenated motor fuel). Up to $50,000 of such deduction is allowable for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults and which is 26,000 pounds or a van with a gross vehicle weight between 10,000 and 26,000 pounds and $2,000 in the case of any other motor vehicle. Qualified electric vehicles do not qualify for, and are excluded from, this deduction. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.

Clean-fuel vehicle refueling property

Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (see sec. 179A). Clean-fuel vehicle refueling property comprises property used in delivering fuel to an automated fueling station. This property also includes property for the recharging of electric vehicles, but only if the property is located at a point where the electric vehicle is recharged. Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is unavailable for costs incurred after December 31, 2006.

### Reasons for Change

The Committee believes that further investments in alternative fuel and advanced technology vehicles are necessary to transform automotive transportation in the United States to be cleaner, more fuel efficient, and less reliant on petroleum fuels. Tax benefits provided directly to the consumer to lower the cost of new technology and alternative-fueled vehicles can help lower consumer resistance to these technologies by making the vehicles more price competitive with purely petroleum-based fuel vehicles and creating increased demand for manufacturers to produce the technologies. The eventual goal is mass production of advanced alternative technology vehicles. The Committee recognizes that creating a number of different credits tailored to each different automotive technology adds complexity to the Internal Revenue Code, but no one technology has established that it alone provides the solution. Therefore, it is appropriate to tailor the tax benefits to specific vehicle technologies, as long as the vehicle's engine technology directly replaces gasoline and diesel fuel with an alternative.

The Committee expects that hybrid motor vehicles and dedicated alternative fuel vehicles are the near-term technological advancement that will replace gasoline- and diesel-burning engines with alternative-powered engines, and electrical and fuel cell vehicles will be the longterm technological advancement.

Applying these technologies to medium and heavy-duty trucks and buses is also important for transforming the transportation sector to a cleaner, more fuel-efficient sector less reliant on petroleum-based fuels. Therefore, it is appropriate to use tax incentives to encourage the introduction of advanced vehicle technologies in large trucks and buses.

In addition, because new vehicle technologies require new infrastructure to deliver those fuels, investments in new technology automobiles alone are not sufficient to transform the market to accept these vehicles. Therefore, investments in new refueling stations and new fuels are also necessary to make alternative vehicle technologies feasible.

### Explanation of Provision

**Alternative motor vehicle credits**

The bill provides a credit for the purchase of a new qualified fuel cell motor vehicle, and a new qualified hybrid motor vehicle, and a new qualified alternative fuel motor vehicle. In addition, the provision provides that the buyer claims the credit, unless the buyer is a tax-exempt entity in which case the seller or lessor of the vehicle may claim the credit. Thus, the provision provides credits for 20 years or carry unused credits back for three years (but not to any taxable year beginning before the date of enactment). Qualified vehicles are vehicles placed in service before 2007 (2012 in the case of fuel cell vehicles). Any deduction otherwise allowable under sec. 179A is reduced by the amount of credit allowable.

**Fuel cell vehicles**

A qualifying fuel cell vehicle is a motor vehicle that is propelled by power derived from one or more cells which convert chemical energy into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and may or may not require reformation prior to use. The amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. For these purposes, the base fuel economy is the 2005 model year city fuel economy for vehicles of various weight classes (see below). Table 1 below, shows the base credit amounts.

**Table 1—Base Credit Amount for Fuel Cell Vehicles**

<table>
<thead>
<tr>
<th>Vehicle Gross Weight Rating in Pounds</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>8,500 &lt; vehicle</td>
<td>$4,000</td>
</tr>
<tr>
<td>8,500 &lt; vehicle = 14,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>14,000 &lt; vehicle = 26,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>26,000 &lt; vehicle</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

Table 2, below, shows the additional credits for passenger automobiles or light trucks.
Hybrid vehicles

A qualifying hybrid vehicle is a motor vehicle that draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy storage system (e.g., batteries). The amount of credit for the purchase of a hybrid vehicle is the sum of two components. In the case of an automobile or light truck, the amount of credit is the sum of a base credit amount that varies with the amount of power available from the rechargeable storage system and a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard. In addition, the vehicle must meet or exceed the EPA Tier II, bin 5 emissions standards. In the case of a heavy duty hybrid motor vehicle (a vehicle weighing more than 8,500 pounds), the amount of credit is the sum of a base credit amount that varies with the amount of power available from the rechargeable storage system and an additional credit for early adoption of the technology that varies with the model year of the vehicle purchased.

For these purposes, a vehicle’s power available from its rechargeable energy storage system as a percentage of maximum available power is calculated as the maximum value available from the battery or other energy storage system divided by a calculated power test, divided by the sum of the battery or other energy storage device and the SAE net power of the heat engine.

Table 3, below, shows the base credit amounts for heavy duty hybrid vehicles weighing more than 14,000 pounds but not more than 26,000 pounds.

Table 4, below, shows the additional fuel economy credit available to a hybrid passenger automobile or light truck whose fuel economy (on a gasoline gallon-equivalent basis) exceeds that of a base fuel economy. For these purposes the base fuel economy is the 2002 model year city fuel economy rating for vehicles of various weight classes (see below).

Table 5, below, shows the base credit amounts for heavy duty hybrid vehicles weighing 14,000 pounds or less.

Table 6, below, shows the base credit amounts for heavy duty hybrid vehicles weighing between $5,000 and $40,000 depending upon the maximum permitted incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, but not more than between $8,500 and $40,000 depending upon the weight of the vehicle. Table 7, below, shows the maximum permitted incremental cost for the purpose of calculating the credit for alternative fuel vehicles by vehicle weight class.

Alternative fuels comprise compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any auto fuel that is at least 85 percent methanol. Qualifying alternative fuel motor vehicles are vehicles that operate only on qualifying alternative fuels and are incapable of operating on gasoline or diesel (except in the extent gasoline or diesel fuel is part of a qualified mixed fuel, described below).

Certain mixed fuel vehicles, that is vehicles that use a combination of an alternative fuel and a petroleum-based fuel, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 100 percent of the otherwise allowable alternative fuel vehicle credit.

Base fuel economy

The base fuel economy is the Environmental Protection Agency’s unadjusted 2002 model year city fuel economy for vehicles by inertia weight class by vehicle type. The “vehicle inertia weight class” is that defined in regulations prescribed by the Environmental Protection Agency for purposes of Title II of the Clean Air Act. Table 9, below, shows the 2002 model year city fuel economy for vehicles by type and by inertia weight class.
M odification of credit for qualified electric vehicles

The bill repeals the phaseout of the credit for electric vehicles under present law. The provision also modifies present law to provide for a Federal energy credit to the lesser of 40 cents per gallon or 10 percent of the manufacturer’s suggested retail price of certain vehicles that conform to the Motor Vehicle Safety Standard 500. For all other electric vehicles, Table 10, below describes the credit.

TABLE 10.—CREDIT FOR QUALIFYING BATTERY ELECTRIC VEHICLES

<table>
<thead>
<tr>
<th>Vehicle Gross Weight Rating in Pounds</th>
<th>Credit Allowable</th>
</tr>
</thead>
<tbody>
<tr>
<td>8,500 &lt; vehicle</td>
<td>$3,200</td>
</tr>
<tr>
<td>8,500 &lt; vehicle = 14,000</td>
<td>10,000</td>
</tr>
<tr>
<td>14,000 &lt; vehicle = 26,000</td>
<td>20,000</td>
</tr>
<tr>
<td>26,000 &lt; vehicle = 50,000</td>
<td>40,000</td>
</tr>
</tbody>
</table>

If an electric vehicle weighing not more than 8,500 pounds has an estimated driving range of at least 100 miles on a single charge of the vehicle’s batteries or if it is capable of a payload capacity of at least 1,000 pounds, then the credit is as shown in Table 10.

In the case of property purchased by tax-exempt persons, the seller may claim the credit. The provision allows taxpayers to carry forward unused credits for 20 years or carry unused credits back three years (but not to any taxable year before the date of enactment).

Extension of present-law section 179A

The bill extends the sunset date of the present law deduction for costs of qualified clean-fuel vehicle and clean-fuel vehicle refueling property through December 31, 2007 (December 31, 2011 in the case of property relating to hydrogen). The provision makes the definition of refueling property in the case of property relating to hydrogen to include property for the production of hydrogen.

The phase-down of present law for clean fuel vehicles is modified such that the taxpayer may claim 75 percent of the otherwise allowable deductible in 2004 and 2005 (2004 through 2009 in the case of property relating to hydrogen), 50 percent of the otherwise allowable deduction in 2006 and 2007 (in the case of property relating to hydrogen), and 25 percent of the otherwise allowable deduction in 2008 (in the case of property relating to hydrogen).

Credit for installation of alternative fueling stations

The bill permits taxpayers to claim a 50 percent credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installation of clean-fuel vehicle refueling property. In the case of refueling property relating to hydrogen), 25 percent of the otherwise allowable deduction in 2007 (2011 in the case of property relating to hydrogen).

Credit for retail sale of alternative fuels

The bill permits taxpayers to claim a credit equal to the gasoline gallon equivalent of 30 cents per gallon of alternative fuel sold in 2003, 40 cents per gallon in 2004, 50 cents per gallon in 2005, and 60 cents per gallon in 2006. Qualifying alternative fuels are compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel containing at least 85 percent of methanol or ethanol. The gasoline gallon equivalency of any alternative fuel is determined by reference to the British thermal unit content of the alternative fuel compared to a gallon of gasoline. The credit may be claimed for sales prior to January 1, 2007. Under the provision, the credit is part of the general business credit.

TABLE 10.—CREDIT FOR QUALIFYING BATTERY ELECTRIC VEHICLES

The provisions relating to the credit for new fuel cell motor vehicles, hybrid motor vehicles, and alternative fuel motor vehicles, the credit for battery electric vehicles, the credit for alternative fuel vehicle refueling property, and deductions for clean fuel vehicles and clean fuel refueling property are effective for taxable years ending after the date of enactment, in taxable years ending after the date of enactment. The credit for retail sales of alternative fuels is effective for taxable years ending after the date of enactment.

C. INCREASED FLEXIBILITY IN ALCOHOL FUELS

A 52-cents-per-gallon income tax credit is allowed for ethanol used as a motor fuel (the “alcohol fuels credit”). The benefit of the alcohol fuels tax credit may be claimed as a reduction in excise tax payments when the ethanol is blended with gasoline (“gasohol”). The reduction is based on the amount of alcohol contained in the gasoline. The tax credit is only available to gasoline producers whose production capacity does not exceed 30 million gallons per year. The alcohol fuels tax credit is scheduled to expire after December 31, 2007.

Reasons for Change

The Committee makes several modifications to the rules governing the small producer ethanol credit. First, the provision liberalizes the definition of an eligible small producer by which the small producer’s production capacity does not exceed 60 million gallons. Second, the provision allows cooperatives to elect to pass-through the small ethanol producer credits to its patrons. The credit allowed to a particular patron is that proportion of the credit that the cooperative elects to pass-through for the patronage of that patron for that year. Third, the provision repeals the rule that includes the small producer credit in income of taxpayers claiming it and liberalizes the ordering and carryforward/carryback rules for the small producer ethanol credit. Fourth, the provision allows the small producer credit to be claimed against the alternative minimum tax. Finally, the provision provides that the small producer ethanol credit is not treated as derived from a passive activity under the Code rules restricting credits and deductions attributable to such activities.

Reasons for Change

The Committee believes the tax benefits currently available to alcohol used in the production of ETBE should be clarified statutorily. In addition, the Committee believes it appropriate to increase the flexibility with respect to the federal credits. The provision makes several modifications to the rules governing the small producer ethanol credit. First, the provision liberalizes the definition of an eligible small producer by which the small producer’s production capacity does not exceed 60 million gallons. Second, the provision allows cooperatives to elect to pass-through the small ethanol producer credits to its patrons. The credit allowed to a particular patron is that proportion of the credit that the cooperative elects to pass-through for the patronage of that patron for that year. Third, the provision repeals the rule that includes the small producer credit in income of taxpayers claiming it and liberalizes the ordering and carryforward/carryback rules for the small producer ethanol credit. Fourth, the provision allows the small producer credit to be claimed against the alternative minimum tax. Finally, the provision provides that the small producer ethanol credit is not treated as derived from a passive activity under the Code rules restricting credits and deductions attributable to such activities.
EXPLANATION OF PROVISION
The provision permits a taxpayer to transfer the alcohol fuels credit with respect to alcohol used in the production of ETBE to any registered position holder for excise tax purposes under section 4081. Such position holder also must obtain from the transferor taxpayer a certificate that identifies the alcohol used in the production of ETBE. The Secretary of the Treasury is to prescribe regulations as necessary to ensure that the credit is claimed once and not reassigned by the position holder.

EFFECTIVE DATE
The provision is effective date of enactment.

D. INCOME TAX CREDIT FOR BIODIESEL FUEL MIXTURES
(Sec. 208 of the bill and new sec. 408 of the Code)

PRESENT LAW
No income tax credit or excise tax rate reduction is provided for biodiesel fuels under present law. However, a 52-cents-per-gallon income tax credit (the "alcohol fuels credit") is allowed for ethanol and methanol (derived from renewable sources) when the alcohol is used as a highway motor fuel. The benefit of the income tax credit may be taken through reductions in excise taxes paid on alcohol fuels. In the case of alcohol blended with other fuels (e.g., gasoline), the excise tax rates are reduced only if they sell at the retail level as vehicle fuel, or use themselves as a fuel in their trade or business ("the alcohol credit"). The 52-cents-per-gallon income tax credit rate is scheduled to decline to 51 cents per gallon during the period 2005 through 2007. For blenders using an alcohol other than ethanol, the rate is 60 cents per gallon.

A separate income tax credit is available for small ethanol producers (the "small ethanol producer credit"). A small ethanol producer is defined as a person whose ethanol production capacity does not exceed 30 million gallons per year. The small ethanol producer credit is 12 cents per gallon of ethanol produced during the taxable year for up to a maximum of 15 million gallons.

The credits that comprise alcohol fuels tax credits are includible in income. The credit may not be used to offset alternative minimum income tax liability. The credit is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally.

Excise tax reductions for alcohol fuels tax credits

General, motor fuels tax rates are as follows:

<table>
<thead>
<tr>
<th>Fuel Type</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gasoline</td>
<td>18.4 cents per gallon</td>
</tr>
<tr>
<td>Diesel fuel and kerosene</td>
<td>24.4 cents per gallon</td>
</tr>
<tr>
<td>Special motor fuel</td>
<td>18.4 cents per gallonGenerally, motor fuels tax rates are as follows:</td>
</tr>
</tbody>
</table>

- Alcohol-blended fuels are subject to a reduced rate of tax. The benefits provided by the alcohol fuels credit and the excise tax reduction are integrated such that the alcohol fuels credit is reduced to take into account the benefit of any excise tax reduction.
- Gasohol
- Registered ethanol blenders may forgo the full income tax credit and instead pay reduced rates of excise tax on gasoline that they purchase for blending with ethanol. Most of the benefit of the alcohol fuels credit is claimed through the excise tax system.
- The reduced excise tax rates also apply when gasoline is being purchased for the production of "gasohol." When gasoline is purchased for blending into gasohol, the rates above are multiplied by a fraction (e.g., 109 for 10 percent gasohol) so that the increased volume of motor fuel will be subject to tax.

Reduced excise tax rates also apply when gasoline is being purchased for the production of "gasohol." When gasoline is purchased for blending into gasohol, the rates above are multiplied by a fraction (e.g., 109 for 10 percent gasohol) so that the increased volume of motor fuel will be subject to tax.

Reduced excise tax rates also apply when gasoline is being purchased for the production of "gasohol." When gasoline is purchased for blending into gasohol, the rates above are multiplied by a fraction (e.g., 109 for 10 percent gasohol) so that the increased volume of motor fuel will be subject to tax.

Alcohol produced from natural gas
A mixture of methanol, ethanol, or other alcohol produced from natural gas that consists of at least 85 percent alcohol is also taxed at reduced rates. For mixtures not containing ethanol, the applicable rate of tax is 13.2 cents per gallon during the period January 1, 2005 through September 30, 2007. The rate on qualified ethanol in 2003 and 2004 is 13.15 cents per gallon. From January 1, 2005 through September 30, 2007, the rate on qualified ethanol is 13.2 cents per gallon. From January 1, 2005 through September 30, 2007, the rate on qualified ethanol is 13.2 cents per gallon.

Biodiesel means biodiesel derived solely from virgin oils, including esters derived from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal fats. Recycled biodiesel is biodiesel derived from nonvirgin vegetable oils or nonvirgin animal fats. Blends of animal and vegetable oils mixed with recycled biodiesel will be treated as recycled biodiesel.

The biodiesel mixture credit is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year. The per gallon biodiesel mixture rate for agri-biodiesel used equals one cent for each percentage point of biodiesel in the qualified biodiesel mixture, subject to a maximum credit of 10 cents per blended gallon of fuel. The amount of the biodiesel mixture credit is included in income. The credit may not be carried back to a taxable year beginning before date of enactment.

EFFECTIVE DATE
The biodiesel mixture credit is effective for biodiesel sold after date of enactment, and before January 1, 2006.

E. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT
(Sec. 208 of the bill, secs. 40, 4081, 6427, 9503, and new sec. 6426 of the Code)

Alcohol fuels income tax credit
The alcohol fuels credit is the sum of three credits: the alcohol mixture credit, the alco-hol credit and the small ethanol producer credit. Generally, the alcohol fuels credit expires after December 31, 2007. A taxpayer (generally a petroleum refiner, distributor, or marketer) who mixes ethanol with gasoline (or a special fuel) is an "ethanol blender." Ethanol blenders are eligible for an income tax credit of 52 cents per gallon of ethanol used in the production of a qualified mixture (the "alcohol mixture credit"). Qualified mixtures consist of a mixture of alcohol and gasoline, and (of alcohol and a special fuel) sold by the blender as a motor fuel for use in motor vehicles produc-ing the mixture. The term alcohol includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 150. Businesses also may reduce their income taxes by 52 cents for each gallon of ethanol (not mixed with gasoline) sold as a motor fuel for use as a highway motor fuel. The term alcohol is defined as a gasoline/ethanol blend that contains 5.7 percent ethanol, 7.7 percent ethanol, or 10 percent ethanol. A biodiesel mixture is a blend of 95 percent biodiesel and 5 percent gasoline. The rate for biodiesel is 12 cents per gallon. For the calendar year 2003, the following reduced rates apply to gasohol:

- 5.7 percent ethanol 15.416 cents per gallon.
- 7.7 percent ethanol 14.356 cents per gallon.
- 10 percent ethanol 13.400 cents per gallon.

Alcohol produced from a substance other than corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, mustard seeds, or animal fats. Recycled biodiesel is biodiesel derived from nonvirgin vegetable oils or nonvirgin animal fats. Blends of animal and vegetable oils mixed with recycled biodiesel will be treated as recycled biodiesel.

The biodiesel mixture credit is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year. The per gallon biodiesel mixture rate for agri-biodiesel used equals one cent for each percentage point of biodiesel in the qualified biodiesel mixture, subject to a maximum credit of 20 cents per blended gallon of fuel. Special biodiesel means biodiesel used in the production of a qualified biodiesel mixture is taken into account only if a certification from the producer of the agri-biodiesel which identifies the product produced is obtained. The per gallon biodiesel mixture rate for recycled biodiesel equals 0.5 cent for each
The Committee believes that the goal of promoting the use of alternative fuels can be achieved without decreasing the revenues available for the nation's roads and bridge network. As a result, the Committee believes that it is appropriate that

Specifically, if any gasoline, diesel fuel, or kerosene on which tax was imposed by section 4081 is used by any person in producing an alcohol fuel mixture or qualified biodiesel mixture that is sold or used by the taxpayer in the person's trade or business, the Secretary is to pay to such person an amount equal to the alcohol fuel mixture credit or biodiesel mixture credit with respect to such gasoline, diesel fuel or kerosene.

If such claims are not paid within 45 days, the claim is to be paid. The provision also provides that in the event of an electronic claim, if such claim is not paid within 20 days, the claim is to be paid with interest equal to the refund provided in section 4081. The provision does not apply with respect to alcohol fuel mixtures sold or used after December 31, 2030 or qualified biodiesel mixtures sold or used after December 31, 2010.

**Highway Trust Fund**

The provision eliminates the requirement that 2.5 and 2.8 cents per gallon of excise taxes be retained in the General Fund so that the full amount of excise taxes is credited to the Highway Trust Fund. The provision also authorizes the full amount of tax credits to be appropriated to the Highway Trust Fund without reduction for amounts equivalent to the excise tax credits allowed for alcohol fuel mixtures and biodiesel mixtures.

**Alcohol fuels income tax credit**

The provision extends the alcohol fuel mixtures and biodiesel mixtures.

**Alcohol fuels income tax credit**

The provision provides that in lieu of the reduced excise tax rates, the provision creates two new credits: the alcohol fuel mixture credit and the biodiesel mixture credit. The provision also increases the amount of these credits. The provision allows taxpayers to file a claim for payment equal to the amount of these credits. The provision also eliminates the General Fund retention of the amount of alcohol fuel mixture and biodiesel fuel credits.

**EXPLANATION OF PROVISION**

**Overview**

The provision eliminates reduced rates of excise tax for most alcohol-blended fuels. In place of reduced rates, the provision creates two new credits: the alcohol fuel mixture credit and the biodiesel mixture credit. The sum of these credits may be taken against tax imposed on taxable fuels (by section 4081). Alternatively, in lieu of a credit the provision allows taxpayers to file a claim for payment equal to the amount of these credits. The provision also eliminates the General Fund retention of the amount of alcohol fuel mixture and biodiesel fuel credits.

**For purposes of the alcohol fuel mixture credit, an "alcohol fuel mixture" is (1) a mixture of alcohol and a taxable fuel and (2) sold for use or used as a fuel by the taxpayer producing the mixture. The alcohol fuel mixture credit is $2.5 cents per gallon of alcohol used by a person in producing an alcohol fuel mixture. The credit declines to 2.3 cents per gallon in the calendar year 2004. For mixtures not containing ethanol (renewable source methanol), the credit is 2 cents per gallon. Equivalent amounts of these credits are to be credited to the Highway Trust Fund.

**Highway Trust Fund**

With certain exceptions, taxes imposed by section 4081 relating to alcohol fuel mixtures are imposed on all alcohol fuel mixtures and biodiesel mixtures. The provision eliminates the General Fund retention of the amount of these credits. The provision also authorizes the full amount of tax credits to be appropriated to the Highway Trust Fund without reduction for amounts equivalent to the excise tax credits allowed for alcohol fuel mixtures and biodiesel mixtures.

**Present Law**

**EFFECTIVE DATE**

The provision is effective for fuel sold or used after September 30, 2030.

**F. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES**

The provision extends the alcohol fuel mixtures and biodiesel mixtures.

**Present Law**

A duty-free sales enterprise that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free enterprise on which neither federal duty nor federal tax has been assessed pending exportation from the customs territory of the United States. Conditions for goods sold as duty-free enterprises include (but are limited to) locations within a specified distance from a port of entry, establishment of procedures ensuring that merchandise is exported from the United States, and prominent posting of rules concerning duty-free treatment of merchandise. The duty-free statute does not contain any limitation on what goods may qualify for duty-free treatment.

**REASONS FOR CHANGE**

The Committee understands that in some cases motor fuels at a duty-free facility that is located in the United States, drive briefly outside of the United States, and return to the United States. The Committee believes that motor fuel sold at duty-free enterprises should support the financing of the U.S. highway system as do other motor fuel sales in the United States.

**Explanation of Provision**

The provision amends Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) to provide that gasoline or diesel sold at duty-free enterprises shall be considered to be sold for consumption into the United States and thus ineligible for classification as duty-free merchandise.

**Effective Date**

The provision is effective on the date of enactment.
TITLE III—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

A. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EFFICIENT HOME (Sec. 303 of the bill and new sec. 45S of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, or has a fuel efficiency that is at least 20 percent less than the fuel efficiency of the primary energy source.

The provision provides a credit to an eligible contractor of an amount equal to the aggregate adjusted bases of all energy-efficient property installed in a qualified new energy-efficient home during construction. The credit is allowed on a per-year basis with the maximum credit amount equal to the aggregate adjusted bases of all energy efficient property installed in a home that has a projected level of annual heating and cooling costs that is 30 percent (50 percent) less than a comparable existing home in accordance with Chapter 4 of the 2000 International Energy Conservation Code.

B. CREDIT FOR ENERGY-EFFICIENT APPLIANCES (Sec. 302 of the bill and new sec. 45H of the Code)

PRESENT LAW

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, or has a fuel efficiency that is at least 20 percent less than the fuel efficiency of the primary energy source.

The provision provides a credit to the building contractor of an amount equal to the aggregate adjusted base of all energy efficient property installed in a qualified new energy-efficient home during construction. The credit is allowed on a per-year basis with the maximum credit amount equal to the aggregate adjusted base of all energy-efficient property installed in a home that has a projected level of annual heating and cooling costs that is 30 percent (50 percent) less than a comparable existing home in accordance with Chapter 4 of the 2000 International Energy Conservation Code.

The credit is applicable to any building contractor who constructs the home, or in the case of a manufactured home, the person who manufactures the home. Energy efficiency property is any energy-efficient building envelope component (insulation materials or system designed to reduce heat loss or gain, and exterior window, including skylights, and doors) and energy-efficient heating or cooling appliance that can, individually or in combination with other components, meet the standards for the home.

To qualify as an energy-efficient new home, the home must be (1) a dwelling located in the United States; (2) the principal residence of the person who acquires the dwelling from the contractor; and (3) certified to have met the Energy Star requirements for energy efficiency. The home may be certified according to a component-based method or an energy performance-based method. Additionally, manufactured homes certified by the Environmental Protection Agency’s Energy Star Labeled Homes program are eligible for the $1,000 credit provided under the Code.

There is no present-law credit for the manufacture of energy-efficient appliances.
A taxpayer may exclude from income the value of any subsidy provided by a public utility, Federal, State, or local government or any agency or instrumentality of such governments or municipalities for the purchase or installation of a qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent for solar water heating property and photovoltaic property, and 30 percent for wind energy property. The maximum credit for each of these systems of property is $2,000. The provision allows a 30 percent credit for the purchase of qualified fuel cell power plants. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

EXPLANATION OF PROVISION

The provision provides a personal tax credit for the purchase of qualified wind energy property, qualified photovoltaic property, and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent for solar water heating property and photovoltaic property, and 30 percent for wind energy property. The maximum credit for each of these systems of property is $2,000. The provision allows a 30 percent credit for the purchase of qualified fuel cell power plants. The credit for any fuel cell may not exceed $500 for each 0.5 kilowatt of capacity.

QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS

Present law

The credit applies to purchases after the date of enactment and before January 1, 2008.

D. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS

Present law

A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses energy derived from hydrogen, a fuel cell, or a microturbine to generate electricity, (2) which have an Energy Efficiency Rating (EER) of 12.5 or greater. The maximum credit is $250 per unit.

The credit is nonrefundable. The taxpayer generally may carry back to taxable years ending before January 1, 2003.
The Committee believes that the special deduction will encourage construction of cooling, ventilation, and hot water supply systems that meet a high energy-efficiency standard will encourage construction of buildings that significantly more efficiently than the norm. The Committee further believes that the special deduction will encourage innovation to reduce the costs of meeting the energy-efficiency standard.

The provision provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures are defined as amounts paid or incurred for energy-efficient property installed in connection with new construction or reconstruction of property: (1) which is depreciable property; (2) which is located in the United States, and (3) which is the type of structure to which the Standard 90.1-2001, the ASHRAE/IESNA Standard 90.1-2001, and the 2001 California Nonresidential Alternative Calculation Method Approval Manual, or the 2001 California Residential Alternative Calculation Method Approval Manual. The methods for calculation need not comply fully with section 11 of ASHRAE/IESNA Standard 90.1-2001. Such interim guidance will allow the value of the deduction to exceed typical performance.

The provision provides a three-year recovery period for qualified new energy management devices placed in service by any taxpayer who is a provider of electric energy services. A qualified energy management device is any metering device that will encourage the consumer to adjust their electricity usage in such a manner to dampen the peak load capacity needs and thus reduce the need for investment in new capacity to meet peak load demand.

The provision is effective for any qualified energy management device placed in service after the date of enactment of the Act and before January 1, 2008.

The Committee believes that providing a 3-year recovery period for qualified new energy management devices will encourage the consumer to adjust their electricity usage in such a manner to dampen the peak load capacity needs and thus reduce the need for investment in new capacity to meet peak load demand.

No special recovery period is currently provided for depreciable property placed in service.

The Committee believes that consumers would better manage their electricity use if they were charged for electricity on a more even basis. The provision is effective for any qualified energy management device placed in service after the date of enactment of the Act and before January 1, 2008.

The provision is effective for any qualified water submetering device placed in service by any taxpayer who is an eligible resupplier. An eligible resupplier is any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property. A qualified water submetering device is any water submetering device eligible for the accelerated depreciation under code section 168 and which is used by the taxpayer (1) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and (2) to provide such data on at least a monthly basis to both consumers and the taxpayer.

The provision is effective for any qualified water submetering device placed in service after the date of enactment of the Act and before January 1, 2008.

The Committee believes that providing a 3-year recovery period for qualified new energy management devices will encourage the consumer to adjust their electricity usage in such a manner to dampen the peak load capacity needs and thus reduce the need for investment in new capacity to meet peak load demand.

The provision is effective for any qualified new energy management device placed in service after the date of enactment of the Act and before January 1, 2008.

The provision is effective for any qualified water submetering device placed in service after the date of enactment of the Act and before January 1, 2008.

The provision is effective for any qualified water submetering device placed in service after the date of enactment of the Act and before January 1, 2008.

The provision is effective for any qualified water submetering device placed in service after the date of enactment of the Act and before January 1, 2008.

No special recovery period is currently provided for depreciable property placed in service.
The Committee believes that investments in combined heat and power systems represent a promising means to achieve greater national energy efficiency by encouraging the dual use of the energy from the burning of fossil fuels. Furthermore, the on-site generation of electricity provided by CHP systems reduces reliance on the United States' electricity grid. The Committee believes that providing a tax credit for investment in combined heat and power property will encourage investments in such systems.

EXPLANATION OF PROVISION

The provision provides a 10-percent credit for the purchase of combined heat and power property. CHP property as defined as property: (1) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of other forms of thermal energy (including heating and cooling applications); (2) which has an electrical capacity of less than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities; (3) which produces at least 20 percent of its total useful energy in the form of thermal energy and at least 20 percent in the form of electrical energy; (4) which is treated as having a 22-year class life. The depreciation period for the property shall be based on applicable energy-efficiency ratings, including current product labeling requirements. Certification by the component method shall be provided by a third party, such as a local building authority. A taxpayer may exclude from income the excess of the depreciation period for the property treated as having a 22-year class life. The present-law carry back rules of the general business tax credit apply except that no credits attributable to combined heat and power property may be carried back before the effective date of this provision.

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

I. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES

CONGRESSIONAL RECORD—SENATE
S10547
July 31, 2003

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.

PRESENT LAW

A taxpayer may exclude from income the tax for any taxable year the excess of the net income tax over 15 percent of the net income tax for any taxable year the excess of the amount of regular tax liability attributable to the property placed in service after the date of enactment and before January 1, 2007.
and production credits to a limited number of experimental production-scale electricity generating units to reduce the cost of building and operating units that represent the frontier of thermal efficiency and pollution control.

Tax-exempt organizations make up a significant percentage of the electricity industry in the United States. The Committee believes it is important to provide the incentives for investment in, and production from, clean coal technologies to all producers.

EXPLANATION OF PROVISION

In general

The bill creates three new credits: a production credit for electricity produced from qualifying advanced clean coal technology units; a production credit for electricity produced from qualifying advanced clean coal technology units; and a credit for investments in qualifying advanced clean coal technology units. Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) will be eligible to obtain certifications from the Secretary of the Treasury (as described below) for each of these credits and sell, trade, or assign the credit to any taxpayer. However, any credit sold, traded, or assigned may only be sold, traded, or assigned once. Subsequent transfers are not permitted.

Credit for investments in qualifying advanced clean coal technology units

The bill provides a 10-percent investment tax credit for qualifying investments in advanced clean coal technology units. A qualified investment is that amount that would otherwise be a qualified investment multiplied by the fraction equal to the amount of national megawatt capacity allocated to the taxpayer (as described below) divided by the national megawatt capacity allocated to any other technology certified by the Secretary of Energy. Any qualifying advanced clean coal technology unit must meet certain carbon emissions requirements.

The proposal defines four types of qualifying advanced clean coal technology units: (1) advanced pulverized coal or atmospheric fluidized bed combustion technology units; (2) qualifying pressurized fluidized bed combustion technology units; (3) integrated gasification combined cycle technology units; and (3) other technology units.

(1) A qualifying advanced pulverized coal or atmospheric fluidized bed combustion technology unit must be an electric generating unit placed in service after the date of enactment and in service after 2008 and before 2013 and having a design net heat rate of not more than 7,720 Btu (8,900 Btu if the unit is placed in service before 2009 and 8,500 Btu if the unit is placed in service after 2008 and before 2013).

(2) A qualifying pressurized fluidized bed combustion technology unit is a unit placed in service after the date of enactment and having a design net heat rate of not more than 7,720 Btu (8,900 Btu if the unit is placed in service before 2009 and 8,500 Btu if the unit is placed in service after 2008 and before 2013).

(3) A qualifying integrated gasification combined cycle technology unit is a unit placed in service after the date of enactment and having a design net heat rate of not more than 7,720 Btu (8,900 Btu if the unit is placed in service before 2009 and 8,500 Btu if the unit is placed in service after 2008 and before 2013) and not more than 500 in total and not more than 2,000 megawatts in years prior to 2009 shall be allocated to units using advanced clean coal technology units. The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to:

<table>
<thead>
<tr>
<th>Kilowatt-hour</th>
<th>Credit amount per kilowatt-hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than 5,900</td>
<td>$0.0001</td>
</tr>
<tr>
<td>More than 5,900 but not more than 8,500</td>
<td>$0.0002</td>
</tr>
<tr>
<td>More than 8,500 but not more than 8,750</td>
<td>$0.0003</td>
</tr>
<tr>
<td>More than 8,750 but not more than 9,000</td>
<td>$0.0004</td>
</tr>
</tbody>
</table>

TABLE 11.—UNITS PLACED IN SERVICE BEFORE 2009

Credit amount per kilowatt-hour

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to $0.0005 for the first three years after the date of enactment.

<table>
<thead>
<tr>
<th>Kilowatt-hour</th>
<th>Credit amount per kilowatt-hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than 7,700</td>
<td>$0.0005</td>
</tr>
<tr>
<td>More than 7,700 but not more than 8,125</td>
<td>$0.0006</td>
</tr>
<tr>
<td>More than 8,125 but less than 8,500</td>
<td>$0.0007</td>
</tr>
</tbody>
</table>

TABLE 12.—UNITS PLACED IN SERVICE AFTER 2008 AND BEFORE 2013

Credit amount per kilowatt-hour

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to $0.0005 for the first three years after the date of enactment.

<table>
<thead>
<tr>
<th>Kilowatt-hour</th>
<th>Credit amount per kilowatt-hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than 7,800</td>
<td>$0.0010</td>
</tr>
<tr>
<td>More than 7,800 but not more than 8,400</td>
<td>$0.0012</td>
</tr>
<tr>
<td>More than 8,400</td>
<td>$0.0013</td>
</tr>
</tbody>
</table>

TABLE 13.—UNITS PLACED IN SERVICE AFTER 2012 AND BEFORE 2017

Credit amount per kilowatt-hour

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to $0.0015 for the first three years after the date of enactment.

<table>
<thead>
<tr>
<th>Kilowatt-hour</th>
<th>Credit amount per kilowatt-hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than 7,980</td>
<td>$0.0015</td>
</tr>
<tr>
<td>More than 7,980 and not more than 8,380</td>
<td>$0.0018</td>
</tr>
</tbody>
</table>

TABLE 14.—UNITS PLACED IN SERVICE AFTER 2017

Credit amount per kilowatt-hour

The unit net heat rate, Btu/kWh adjusted for the heat content for the design coal is equal to $0.0020 for the first three years after the date of enactment.
The terms “qualified crude oil production” and “qualified natural gas production” mean domestic crude oil or natural gas which is produced from a qualified marginal well. Production from these wells must not be in compliance with the applicable Federal pollution prevention, control and permit requirements for any period of time is not considered qualified crude oil or qualified natural gas production. A qualified marginal well is defined as (1) a well production from which was marginal production for purposes of the Code percentage depletion rules or (2) a well that during the taxable year had (a) average daily production of not more than 25 barrel equivalents and (b) produced water at not less than 95 percent of total well effluent.

The credit is treated as part of the general business credit. The credit cannot be carried back to a taxable year ending on or before the date of enactment of the provision.

**Effective Date**

The provision is effective for production in taxable years beginning after the date of enactment.

**Reasons for Change**

The Committee believes that the cost of complying with the Federal pollution prevention, control and permit requirements for small refiners to reduce their capital costs of complying with the Environmental Protection Agency (EPA) diesel fuel and sulfur control requirements.

The provision generally permits small business refiners to claim an immediate deduction (i.e., expensing) for up to 75 percent of the qualifi ed capital costs incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency. Qualified capital costs are those capital costs incurred or otherwise chargeable to the taxpayer's capital account that are necessary for the refinery to come into compliance with the EPA diesel fuel requirements.

In addition, the provision provides that a small business refiner may claim a credit equal to five cents per gallon for each gallon of low sulfur diesel fuel produced at a facility of a small business refiner. The total production credit claimed by the taxpayer generally is limited to 25 percent of the qualified capital costs incurred with respect to expenditures at the refinery (or refineries) beginning after the date of enactment and ending with the date that is one year after the date on which the tax credit must be used. If the applicable EPA requirement is not met, the taxpayer may receive a deduction for expenses otherwise allowable as a deduction in an amount equal to the amount of production credit claimed during the taxable year.

For these purposes a small business refiner is a taxpayer who, within the business of refining petroleum products, employs not more than 1,500 employees directly in refining or owned or controlled on business days during a taxable year in which the deduction or production credit is claimed and had an average daily refinery run (or refinery production) not exceeding 250,000 barrels per day for the year prior to enactment.

For taxpayers with an average daily refinery run in the year prior to enactment in excess of 155,000 and not greater than 205,000 barrels per day, the provision limits otherwise qualifying small business refiners to an immediate deduction for a percentage of qualifying capital costs equal to 75 percent less the percentage points determined by the excess of the average daily refinery runs over 155,000 barrels per day as a reduction in the percentage of qualifying capital costs equal to 75 percent less the percentage points determined by the excess of the average daily refinery runs over 155,000 barrels per day. In addition, for these taxpayers, the limitation on the total production credit that may be claimed also is reduced proportionately.

In the case of a qualifying small business refiner that is owned by a cooperative, the credit is treated as part of the general business credit. The credit cannot be carried back to a taxable year ending on or before the date of enactment of the provision.
cooperative is allowed to elect to pass any production credits to patrons of the organization.

**EFFECTIVE DATE**

The provision is effective for expenses paid or incurred after December 31, 2002.

D. **DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION**

(Sec. 505 of the bill and sec. 63A of the Code)

**PRESENT LAW**

Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides numerous special tax rules for operations by independent producers. One such rule allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion).

A producer is an independent producer only if its refining and retail operations are relatively small. For example, an independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed.

**REASONS FOR CHANGE**

The Committee believes that the goal of present law, to identify producers without significant refining capacity, can be achieved while permitting more flexibility to refiner operations. The provision increases the current 50,000-barrel-per-day limitation to 60,000. In addition, the provision changes the refiner limitation on claiming independent producer status from a limit on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refiner run for the taxable year cannot exceed 60,000 barrels. For this purpose, the taxpayer calculates average daily refiner run by dividing total production for the taxable year by the total number of days in the taxable year.

**EFFECTIVE DATE**

The provision is effective for taxable years ending after the date of enactment.

E. **EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL WELLS**

(Sec. 506 of the bill and sec. 63A of the Code)

**PRESENT LAW**

In general, depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset—in the case of depletion for oil or gas interests, the mineral reserve itself—is being expended in order to produce income. Certain costs incurred prior to drilling an oil or gas property are recovered through the depletion deduction. These include costs of acquiring the lease or other interest in the property and geological and geophysical costs (in advance of actual drilling). Depletion is available to any person having an economic interest in a producing property. An economic interest is possessed in every case in which the taxpayer has acquired by investment any interest in minerals in place, and secures, by any form of legal relationship, income derived from the extraction of the mineral, to which it must look for a return of its capital. Thus, for example, both working interests and royalty interests in oil and gas properties may constitute economic interests, thereby qualifying the interest holders for depletion deductions with respect to the property. A taxpayer who has no capital investment in the mineral deposit does not possess an economic interest merely because it possesses an economic or pecuniary advantage derived from production through a contractual relation.

The provision is effective for taxable years ending after the date of enactment.

**EFFECTIVE DATE**

The provision allows for tax years beginning after 1990. The 100 percent net-income limitation on percentage depletion for oil and gas properties for taxable years beginning after 1990 is extended to be 100 percent only for oil and gas properties, effective for taxable years beginning after 1990. The 100-percent net-income limitation for marginal wells has been suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.

**EXPLANATION OF PROVISION**

The Code generally limits the percentage depletion method for oil and gas properties to independent producers and royalty owners. Generally, under the percentage depletion method, the deduction is 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. (Sec. 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property. Therefore, for any year in which after the deduction, the amount deducted in any year may not exceed 100 percent of the net income from the property. For any year in which after the deduction, the amount deducted in any year may not exceed 100 percent of the net income from the property, the amount deducted in any year may not exceed 100 percent of the net income from the property.

The Code limits the percentage depletion method for oil and gas properties to independent producers and royalty owners. Generally, under the percentage depletion method, the deduction is 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. (Sec. 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property. Therefore, for any year in which after the deduction, the amount deducted in any year may not exceed 100 percent of the net income from the property, the amount deducted in any year may not exceed 100 percent of the net income from the property. For any year in which after the deduction, the amount deducted in any year may not exceed 100 percent of the net income from the property, the amount deducted in any year may not exceed 100 percent of the net income from the property.

**REASONS FOR CHANGE**

The Committee believes that the goal of present law, to identify producers without significant refining capacity, can be achieved while permitting more flexibility to refiner operations. The provision increases the current 50,000-barrel-per-day limitation to 60,000. In addition, the provision changes the refiner limitation on claiming independent producer status from a limit on actual daily production to a limit based on average daily production for the taxable year. Accordingly, the average daily refiner run for the taxable year cannot exceed 60,000 barrels. For this purpose, the taxpayer calculates average daily refiner run by dividing total production for the taxable year by the total number of days in the taxable year.

The provision is effective for taxable years ending after the date of enactment.

**EFFECTIVE DATE**

The provision is effective for expenses paid or incurred after December 31, 2002.

F. **AMORTIZATION OF DELAYED RENTAL PAYMENTS**

(Sec. 507 of the bill and new sec. 199A of the Code)

**PRESENT LAW**

Present law generally requires costs associated with property held for resale to be capitalized rather than currently deducted as they are incurred. (Sec. 263). Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for “delay rental payments” as a condition of their extension. In proposed regulations issued in 2000, the Treasury Department took the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

**REASONS FOR CHANGE**

The Committee believes that substantial simplification for taxpayers and significant gains in taxpayer compliance and reductions in administrative costs can be achieved by establishing the simple rule that all delay rental payments may be amortized over two years, including the basis of abandoned property.

**EXPLANATION OF PROVISION**

The provision allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

**EFFECTIVE DATE**

The provision applies to delay rental payments paid or incurred in taxable years beginning after the date of enactment. No inference is intended from the prospective effective date of this proposal as to the proper treatment of pre-effective date delay rental payments.

**G. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES**

(Sec. 508 of the bill and new sec. 199B of the Code)

**PRESENT LAW**

In general, geological and geophysical expenditures are costs incurred by a taxpayer for the purpose of obtaining and accumulating data...
that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. A key issue with respect to the tax treatment of such expenditures is whether or not they are capital in nature. Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated as expenses. Courts have held that geological and geophysical costs are capital, and therefore are allocable to the cost of the property acquired or retained and not expensed in the year the exploration is allocable to the cost of the property acquired or retained. As described further below, IRS administrative rulings have provided further guidance regarding the definition and proper tax treatment of geological and geophysical costs.

Revenue Ruling 77-188

In Revenue Ruling 77-188 (hereinafter referred to as the “1977 ruling”), the IRS provided guidance regarding the proper tax treatment of geological and geophysical costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

- It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area encompasses a territory that the taxpayer determines can be explored advantageously in a single operation. The determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, the number of personnel, and the amount of money available to conduct an exploration program over the project area.
- The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques. These techniques are designed to yield data that will afford a basis for identifying specific geological features with sufficient potential to merit further exploration.
- Each project area is situated on the section of the original project area in which such a specific geological feature is identified as a separate “area of interest.” The original project area encompasses as many project areas as there are areas of interest located and identified within the original project area. If the circumstances permit a detailed exploration program to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.
- The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted in each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield accurate sub-surface data to afford a basis for a decision to acquire or retain properties within or adjacent to a particular area of interest or to abandon the cost of the property. This determination is made after analyzing certain variables such as (1) the size and topography of the project area to be explored, (2) the existing information available with respect to the project area and nearby areas, and (3) the quantity of equipment, the number of personnel, and the amount of money available to conduct an exploration program over the project area.

The Committee concludes that the section 29 credit, on the margins, has improved production from domestic sources and that in the absence of these non-conventional sources the demand for imported fuels may have increased. To increase domestic sources of supply, the Committee believes it is appropriate to extend the section 29 credit to foster new domestic fuel sources. The Committee is also concerned, without adequate recovery of the production credit due to the higher extraction costs of certain “viscous oil,” entrepreneurs would not otherwise exploit this domestic energy source. Therefore, the Committee believes it is appropriate to extend the credit for viscous oil produced from new wells or facilities. The Committee also recognizes that the credit for production of synthetic fuels from coal has been interpreted to include fuels that are merely chemical changes to coal that do not necessarily enhance the value or environmental performance of the feedstock coal. Therefore, the Committee believes it is appropriate to extend the section 29 credit only to fuels produced from coal that achieve significant environmental and value-added improvements. Methane in coal mines is a serious safety hazard. In many coal mining operations, the cost of removing the methane is a large portion of the cost of the coal mined. Therefore, the Committee believes that the section 29 credit should be extended to methane produced from coal mines.

The Committee recognizes that the world price of oil as the nation enters the 21st century has not risen to levels forecast in 1978. Therefore, the Committee believes it is appropriate to restart the section 29 credit at a level lower than that currently available to existing production.

The Committee believes it is important to study the efficacy of the section 29 credit in the case of methane recovered from coal seams or so-called “coal beds.”
would not be able to claim any credit for production in excess of a daily average of 200,000 cubic feet of gas (or barrel of oil equivalent) from a qualifying well or facility.

Clarification of definition of when a facility is placed in service

The provision clarifies the definition of when a landfill gas facility is placed in service, based on the date placed in service on or before the date of enactment and for facilities placed in service after the date of enactment. In general, a landfill gas facility includes wells, pipes, and related components installed to draw off landfill gas, the landfill gas drawn from each additional integrated set of wells, pipes, and related components are treated as separate units of placement, and each landfill gas attributable to those wells, pipes, and related components are placed in service on or before the date of enactment. That is, all of the landfill gas produced from a landfill is not considered to be from the same facility placed in service on or before the date on which the first set of wells, pipes, and related components drew gas from the landfill. Rather, as a landfill expands and additional integrated sets of wells, pipes, and related components are installed to draw off landfill gas, the landfill gas drawn from each additional integrated set of wells, pipes, and related components is placed in service on the date each additional integrated set of wells, pipes, and related components is placed in service. That is, a single landfill may have several "facilities" eligible for the section 29 credit, each placed in service on a different date.

Extension for certain non-conventional fuels

The provision permits taxpayers to claim the section 29 credit for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. Under the provision, qualifying fuels are oil from shale or tar sands, and gas from geopressed brine, coal seam or lignite, or shales or coal seams, and miscellaneous liquid, gaseous, or solid derivatives, including gas from geopressed brine, coal seam or lignite, or shales or coal seams, and miscellaneous liquid, gaseous, or solid derivatives. The value of the credit is 50 percent of the cost of production of oil and gas from geopressed brine, coal seam or lignite, or shales or coal seams, and miscellaneous liquid, gaseous, or solid derivatives. The credit is not indexed for inflation. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to an unrelated person. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. The credit is equal to 50 percent of the cost of production of coalmine gas, but not the cost of producing the associated brine.

Expansion for "viscous oil"

The provision expands section 29 to permit tax credits to be claimed on section 29 credits for production of certain viscous oil produced at wells placed in service after the date of enactment and before January 1, 2007. The provision also makes it clear that the credit for "viscous oil" is to be considered to be a credit for production of the crude oil produced from any property if the crude oil has a weighted average gravity of 22 degrees API or less (corrected to 60 degrees Fahrenheit). The value of the credit for viscous oil also is $3.00 per barrel. Taxpayers may claim the credit for production from the wellhead. The provision provides that qualifying sales to related parties for consumption not in the immediate vicinity of the wellhead qualify for the credit.

Expansion for "refined coal"

The provision also expands section 29 to include certain "refined coal" as a qualified fuel. "Refined coal" is a fuel that burns at prices at least 50 percent greater than that of coal or comparable coal. However, no fuel produced at a qualifying clean coal facility (as defined elsewhere in the committee bill) would qualify for the credit for refined coal also is $3.00 per barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead.

Extension of credit for certain existing facilities

The provision extends the present-law credit for fuels produced from existing facilities placed in service on or before January 1, 2007, to include inclusions for the first three years of production in excess of a daily average of 200,000 cubic feet of gas (or barrel of oil equivalent) from a qualifying well or facility. The provision also makes it clear that the credit is equal to $3.00 (unindexed) per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuels produced and sold before January 1, 2007. A qualifying fuel is a fuel that when burned emits 20 percent less nitrogen oxide and either sulfur dioxide or mercury than the burning of feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2003, and if the fuel sells at prices at least 50 percent greater than that of coal or comparable coal. However, no fuel produced at a qualifying clean coal facility (as defined elsewhere in the committee bill) would qualify for the credit for refined coal also is $3.00 per barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.

Expansion for coalmine gas

In addition, the provision permits taxpayers to claim the section 29 credit for coalmine gas captured as a fuel source or sold by or on behalf of the taxpayer to unrelated persons. The provision also makes it clear that neither the term "coalbed methane" nor "fracked coal" is a qualified fuel. The credit is available only with respect to fuels produced from wells drilled or completed after the date of enactment and before January 1, 2007. In general, the credit is based on the cost of production at the wellhead. The provision also makes it clear that the credit is equal to $3.00 per barrel or Btu oil barrel equivalent. Taxpayers may claim the credit for fuel produced during the five-year period beginning on the date the facility is placed in service.
The Committee recognizes the natural gas in Alaska is an important natural resource that can expand domestic energy supplies. However, with the volatility of natural gas prices, the private sector may be unwilling to make the substantial investment in a pipeline to bring some of the natural gas to the lower 48 States. In this case, the Committee believes it is important to make this natural gas resource available to the lower 48 States and to provide an economic stimulus to the Alaskan energy industry. The Committee believes a credit against income taxes for delivery of natural gas to a transmission pipeline will provide a minimum return and the reduced volatility necessary to induce the private sector to invest in the pipeline to bring Alaskan natural gas to the rest of the U.S. market.

**EXPLANATION OF PROVISION**

The provision provides a credit per million British thermal units (Btu) of natural gas for Alaskan natural gas entering a pipeline during the 15-year period beginning the later of January 1, 2010 or the initial date for the interstate transportation of Alaskan natural gas. Taxpayers may claim the credit against both the regular and minimum tax. The credit is allowable if the reference price of Alaskan natural gas rises above $1.35 per million Btu.

The provision provides that the Secretary of Energy calculate the reference price of Alaska natural gas. The reference price of Alaska natural gas is defined as the monthly Chicago city gate price for natural gas delivered to the lower 48 States less certain transportation costs and gas processing costs. The Committee intends that gas processing costs include any gas treatment plant related to natural gas as reliably reported in one or more more trade publications or as reported by the Federal Energy Regulatory Commission. At the present time, the appropriate national regulatory body for transportation of natural gas in the United States is the Federal Energy Regulatory Commission. The Committee further understands that the appropriate national regulatory body used in the carrying of natural gas by means of pipelines, trunk lines, related equipment and apparatus. It does not include any gas treatment plant related to such pipeline.

**EFFECTIVE DATE**

The proposal is effective on the date of enactment.

**K. CERTAIN ALASKA PIPELINE SYSTEMS TREATED AS SEVEN-YEAR PROPERTY**

( Sec. 512 of the bill and sec. 168 of the Code)

**PRESENT LAW**

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the "class life of the property." The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87-56. The Committee believes it is important to reduce the recovery period and, thus, the cost of capital, for investment in natural gas pipeline systems in Alaska that meet certain requirements.

**EXPLANATION OF PROVISION**

The provision establishes a statutory seven-year recovery period and a class life of 10 years for any pipeline system for any pipeline system located in Alaska, that has a capacity greater than five hundred billion Btu of natural gas per day and is placed in service after 2003.

**EFFECTIVE DATE**

The proposal is effective on the date of enactment.

**L. EXEMPT CERTAIN PREPAYMENTS FOR NATURAL GAS FROM TAX-EXEMPT BOND ARBITRAGE RULES**

(Sec. 513 of the bill and sec. 148 of the Code)

**PRESENT LAW**

Interest on bonds issued by States or local governmental bodies used in the private, commercial, and industrial sectors to invest in the pipeline to bring Alaskan natural gas to the rest of the United States is an important natural resource that can expand domestic energy supplies. However, with the volatility of natural gas prices, the private sector may be unwilling to make the substantial investment in a pipeline to bring some of the natural gas to the lower 48 States. In this case, the Committee believes it is important to make this natural gas resource available to the lower 48 States and to provide an economic stimulus to the Alaskan energy industry. The Committee believes a credit against income taxes for delivery of natural gas to a transmission pipeline will provide a minimum return and the reduced volatility necessary to induce the private sector to invest in the pipeline to bring Alaskan natural gas to the rest of the U.S. market.

The Committee recognizes that, on our present course, the nation will be ever more reliant on foreign governments, that do not always have America's interest at heart, for oil and natural gas. The Committee recognizes that even with conservation efforts and alternative sources of energy that our nation's long-term security depends on reducing our reliance on foreign energy sources.

In light of this, the Committee believes it is appropriate to reduce the recovery period, and thus, the cost of capital, for investment in natural gas pipeline systems in Alaska that meet certain requirements.

The provision creates a safe harbor exception to the provisions of the modified accelerated cost recovery system (MACRS) applicable to the transportation of natural gas. The provision excludes from the MACRS five-year recovery period any costs incurred for the acquisition, construction, installation, or acquisition of interest in the lease of a pipeline to transport natural gas from Alaska to the lower 48 States.

The provision applies if at least 95 percent of the natural gas purchased with the proposal is to be (1) consumed by retail customers in the service area of a municipal gas utility, or (2) used to produce electricity that will be furnished to retail customers that a municipal utility intends to sell to customers outside the State or Federal law.

An obligation that arises solely because of a contract is not an obligation to serve under State or Federal law.

An obligation that arises solely because of a contract is not an obligation to serve under State or Federal law.

An obligation that arises solely because of a contract is not an obligation to serve under State or Federal law.

The proposal provides a credit per million British thermal units (Btu) of natural gas for Alaskan natural gas entering a pipeline during the 15-year period beginning the later of January 1, 2010 or the initial date for the interstate transportation of Alaskan natural gas. Taxpayers may claim the credit against both the regular and minimum tax. The credit is allowable if the reference price of Alaskan natural gas rises above $1.35 per million Btu; at a rate of one cent per million Btu, at a rate of one cent per million Btu, at a rate of one cent per million Btu.

The credit phases out as the reference price of Alaskan natural gas falls below $1.35 per million Btu. The credit is not available if the reference price of Alaska natural gas rises above $1.35 per million Btu. The 52-cent and 83-cent figures are indexed for inflation after 2002 with the first adjustment for calendar year 2004.

The bill provides that the Secretary of Treasury calculate the reference price of Alaskan natural gas as the average price of natural gas delivered to the lower 48 States less certain transportation costs and gas processing costs. The Committee intends that gas processing costs include any gas treatment plant related to natural gas as reliably reported in one or more more trade publications or as reported by the Federal Energy Regulatory Commission. At the present time, the appropriate national regulatory body for transportation of natural gas in the United States is the Federal Energy Regulatory Commission. The Committee further understands that the appropriate national regulatory body is the Federal Energy Regulatory Commission.

The Committee determined that it was appropriate to complement the proposed Treasury regulations with a safe harbor that provides certainty on the date of its issue that prepayments for natural gas within the safe harbor will not violate the arbitrage rules. This provision will ensure adequate supplies of natural gas at prices competitive with natural gas utility customers without sacrificing to a great degree the appropriate present-law limitations regarding tax-exempt bond issuance for the purpose of obtaining a supply of natural gas.

In general, the proposal creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private bond tests.

Under the provision, a prepayment financed with tax-exempt bonds used for the purpose of obtaining a supply of natural gas for service area customers of a governmental utility is not treated as the acquisition or financing of an investment contract if the prepayment is a qualified natural gas supply contract if the volume of natural gas secured for any...
year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area during the testing period (the ‘‘prepayment period’’) during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the government utility. The testing period is the 5-calendar-year period immediately preceding the calendar year in which the bonds are issued. A retail customer is one who does not purchase large quantities of natural gas to generate electricity by a governmental utility is counted as retail natural gas consumption if the electricity was sold to retail within the service area of the governmental electric utility.

With respect to qualified natural gas supply contracts entered into by joint action agencies acting for or on behalf of one or more governmental utilities, the requirements of the service harbor are tested at the utility level. A joint action agency shall be treated as a separate entity within the service area of such utility.

Adjustments

The volume of gas permitted by the general fund is reduced by natural gas otherwise available on the date of issuance. Specifically, the amount of natural gas permitted to be acquired under a qualified natural gas supply contract for the prepayment period is reduced by the applicable share of natural gas held by the utility on the date of issuance of the bonds and natural gas that the utility has a right to acquire for the prepayment period (determined as of the date of issuance). For purposes of the preceding sentence, applicable shares mean, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

For purposes of the safe harbor, if after the close of the testing period and before the issue date of the bonds (1) the governmental utility enters into a contract to supply natural gas (other than for resale) for use by a business with an estimated service requirement (i.e., the utilization of areas contiguous to such areas), and (2) the gas consumption for such property was not included in the testing period or the ratable amount of natural gas not subject to supply under the contract is significantly greater than the ratably amount of gas supplied to such property during the testing period, then the amount of gas purchased may be increased to accommodate the contract.

The average annual retail natural gas consumption calculation for purposes of the safe harbor, however, is not to exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

Intentional acts

The safe harbor does not apply if the utility engages in intentional acts to render the volume of natural gas covered by the prepayment to be in excess of that needed for (1) retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. Sales to dispose of excess gas outside the service area that are necessary to prevent the service area of the utility, such as weather conditions, are not considered intentional acts to render the prepaid gas supply in excess of the utility’s need.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution service, or in the case of an electric utility, electric distribution service, is required to be furnished to such areas, and (2) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas within a county contiguous to the area described in (1) in which retail customers of the utility are located if such area is not also served by another utility for the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor level. The Secretary may (1) reduce the level of gas in consumption or population that demonstrates that the amount permitted by the exception is insufficient.

The provision is effective for obligations issued after the date of enactment.

TITLE VI—ELECTRIC UTILITY

RESTRUCTURING PROVISIONS

A. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS

(Sec. 601 of the bill and sec. 469A of the Code)

PRESENT LAW

Overview

Special rules dealing with nuclear decommissioning reserve funds were adopted by Congress in the Deficit Reduction Act of 1984 (Title VI, 26 U.S.C. ch. 38). When tax issues regarding the time value of money were addressed generally. Under general tax accounting rules, a deduction for the basis of the fund is deferred until there is economic performance for the item for which the deduction is claimed. However, the 1984 Act contains an exception under which a taxpayer responsible for nuclear decommissioning costs may elect to deduct contributions made to a qualified nuclear decommissioning fund for future decommissioning costs. Taxpayers who do not elect this provision are subject to general tax accounting rules. Qualified nuclear decommissioning fund

A qualified nuclear decommissioning fund (a ‘‘qualified fund’’) is a segregated fund established to pay decommissioning costs. Contributions to a qualified fund simply because it is accumulated as the service area of the governmental electric utility.

The safe harbor does not apply if the utility engages in intentional acts to render the volume of natural gas covered by the prepayment to be in excess of that needed for (1) retail natural gas consumption, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. Sales to dispose of excess gas outside the service area that are necessary to prevent the service area of the utility, such as weather conditions, are not considered intentional acts to render the prepaid gas supply in excess of the utility’s need.

Definition of service area

Service area is defined as (1) any area throughout which the governmental utility provided (at all times during the testing period) in the case of a natural gas utility, natural gas transmission or distribution service, or in the case of an electric utility, electric distribution service, is required to be furnished to such areas, and (2) any area recognized as the service area of the governmental utility under State or Federal law. Contiguous areas within a county contiguous to the area described in (1) in which retail customers of the utility are located if such area is not also served by another utility for the same service.

Ruling request for higher prepayment amounts

Upon written request, the Secretary may allow an issuer to prepay for an amount of gas greater than that allowed by the safe harbor level. The Secretary may (1) reduce the level of gas in consumption or population that demonstrates that the amount permitted by the exception is insufficient.

The provision is effective for obligations issued after the date of enactment.

EXPEDITION OF PROVISION

The provision repeals the cost of service requirement for deductible contributions to a nuclear decommissioning fund. Thus, all taxpayers including unregulated taxpayers, would be allowed a deduction for amounts contributed to a qualified fund.

Repeal of cost of service requirement

The provision repeals the limitation that a qualified fund only accumulate an amount sufficient to pay for a nuclear powerplant’s decommissioning costs incurred during the period that the fund was in existence (generally post-1984 decommissioning costs). Thus, any taxpayer is permitted to accumulate an amount sufficient to cover the present value of 100 percent of a nuclear powerplant’s estimated decommissioning costs in a qualified fund. The proposal also repeals the requirement that contributions to a qualified fund not be deducted more rapidly than level funding.

Clarify treatment of transfers of qualified funds

The provision clarifies that the Federal income tax treatment of transfers of a qualified fund is not recognized. No gain or loss would be recognized to the transferee or the transferee (or the qualified fund) as a result of the transfer of a qualified fund in conjunction with the transfer of the powerplant with respect to which such fund was established.

The provision repeals the rule that contributions to a qualified fund not be deduct more rapidly than level funding.

The provision clarifies the Federal income tax treatment of transfers of qualified funds. No gain or loss would be recognized to the transferee or the transferee (or the qualified fund) as a result of the transfer of a qualified fund in conjunction with the transfer of the powerplant with respect to which such fund was established.
The provision permits a taxpayer to make contributions to a qualified fund in excess of the rules otherwise applicable. Specifically, a taxpayer is permitted to contribute up to the present value of the amount required to fund a nuclear powerplant for tax purposes, which under the present law section 468A(d)(2)(A) is not permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer's deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that is transferred to another person, that person will be entitled to the deduction at the same time and in the same manner as the transferor. If the transfer was not subject to tax at the time and thus would have been unable to use the deduction, the transferee will similarly not be able to utilize the deduction.

**Effective Date**

The provision is effective for taxable years beginning after date of enactment.

### B. TREATMENT OF CERTAIN INCOME OF COOPERATIVES

(See section 1703 of the bill and section 501 of the Code)

**Present Law**

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage.

**Reasons for Change**

The purpose of the 85-percent test under section 501(c)(12) is to ensure that the profits of the cooperative are returned to patrons. The cooperative tax rules of subchapter T of the Code (section 1381, et seq.) are permitted a deduction for patronage dividends from their taxable income only to the extent of net income derived from transactions with patrons who are members of the cooperative (section 1382). The availability of such deductions from taxable income has the effect of allowing the cooperative to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

**Explanation of Provision**

Treatment of income from open access transactions

The bill provides that income received or accrued by a rural electric cooperative from open access transactions (other than income received or accrued directly from a member of the cooperative) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). The term “open access transaction” is defined as:

1. The provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis: (i) pursuant to an open access transmission tariff filed with and approved by the Federal Energy Regulatory Commission (“FERC”) (including acceptable reciprocity tariffs), or (ii) under an RTO agreement approved by FERC (including an agreement providing for the transfer of control—i.e., control of the ownership of transmission facilities); or
2. The provision or sale of electric energy to nonmembers of a rural electric cooperative on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the cooperative or its members; or
3. The delivery or sale of electric energy on a nondiscriminatory open access basis, provided that such electric energy is generated by a generation facility that is directly or indirectly owned by the cooperative (or its members) which owns the generation facility.

The Committee believes that the nature of an electric cooperative’s activities does not change because it has income from open access transactions with non-members or from nuclear decommissioning transactions (as these terms are defined in the bill). Accordingly, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to such income. The Committee intends that the term “open access transaction” shall be applied in the same manner that a cooperative is permitted to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

For similar reasons, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to cancellation of indebtedness income from the prepayment of certain loans that are provided, insured, or guaranteed by the Federal government, as well as income from certain transactions that would otherwise qualify for deferred gain recognition under section 1031 or 1033.

The Committee further believes that electric energy sales to nonmembers should not result in a loss of tax-exempt status or cooperative status to the cooperative. It is anticipated that an amount that is permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer’s deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that is transferred to another person, that person will be entitled to the deduction at the same time and in the same manner as the transferor. If the transfer was not subject to tax at the time and thus would have been unable to use the deduction, the transferee will similarly not be able to utilize the deduction.

## Effectiveness Date

The provision is effective for taxable years beginning after date of enactment.

## Effectiveness Date

The provision is effective for taxable years beginning after date of enactment.

**Explanation of Provision**

The provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis is defined as:

1. The provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis is defined as:
2. The provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis is defined as:
3. The provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis is defined as:

The Committee believes that the nature of an electric cooperative’s activities does not change because it has income from open access transactions with non-members or from nuclear decommissioning transactions (as these terms are defined in the bill). Accordingly, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to such income. The Committee intends that the term “open access transaction” shall be applied in the same manner that a cooperative is permitted to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

For similar reasons, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to cancellation of indebtedness income from the prepayment of certain loans that are provided, insured, or guaranteed by the Federal government, as well as income from certain transactions that would otherwise qualify for deferred gain recognition under section 1031 or 1033.

The Committee further believes that electric energy sales to nonmembers should not result in a loss of tax-exempt status or cooperative status to the cooperative. It is anticipated that an amount that is permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer’s deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that is transferred to another person, that person will be entitled to the deduction at the same time and in the same manner as the transferor. If the transfer was not subject to tax at the time and thus would have been unable to use the deduction, the transferee will similarly not be able to utilize the deduction.

**Effective Date**

The provision is effective for taxable years beginning after date of enactment.

## Present Law

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage.

**Reasons for Change**

The purpose of the 85-percent test under section 501(c)(12) is to ensure that the profits of the cooperative are returned to patrons. The cooperative tax rules of subchapter T of the Code (section 1381, et seq.) are permitted a deduction for patronage dividends from their taxable income only to the extent of net income derived from transactions with patrons who are members of the cooperative (section 1382). The availability of such deductions from taxable income has the effect of allowing the cooperative to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

For similar reasons, the Committee believes that the 85-percent test for tax exemption under present law should be applied without regard to such income. The Committee intends that the term “open access transaction” shall be applied in the same manner that a cooperative is permitted to carry out its statutory purpose in a restructured electric energy market environment without adversely impacting its tax-exempt status.

The Committee further believes that electric energy sales to nonmembers should not result in a loss of tax-exempt status or cooperative status to the cooperative. It is anticipated that an amount that is permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). It is anticipated that an amount that is permitted to be contributed under this special rule shall be determined using the estimate of total decommissioning costs used for purposes of determining the taxpayer’s deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that is transferred to another person, that person will be entitled to the deduction at the same time and in the same manner as the transferor. If the transfer was not subject to tax at the time and thus would have been unable to use the deduction, the transferee will similarly not be able to utilize the deduction.

## Effectiveness Date

The provision is effective for taxable years beginning after date of enactment.

## Present Law

Under present law, an entity must be operated on a cooperative basis in order to be treated as a cooperative for Federal income tax purposes. Although not defined by statute or regulation, the two principal criteria for determining whether an entity is operating on a cooperative basis are: (1) ownership of the cooperative by persons who patronize the cooperative; and (2) return of earnings to patrons in proportion to their patronage. The IRS takes the position that rural electric cooperatives must comply with the fundamental cooperative principles described above in order to qualify for tax exemption under section 501(c)(12). The 85-cen
For purposes of the 85-percent test, the bill also provides that income received or accrued by a rural electric cooperative from any "open access transaction" is treated as an amount of income from members for the sole purpose of meeting losses and expenses if the income is received or accrued indirectly from a member of the cooperative.

Treatment of income from nuclear decommissioning transactions

The bill provides that income received or accrued by a rural electric cooperative from any "nuclear decommissioning transaction" also is treated as income from members for the sole purpose of meeting losses and expenses if the income is received or accrued by a rural electric cooperative that satisfies the 85-percent test for tax exemption under section 501(c)(12). The term "nuclear decommissioning transaction" is defined as—

(1) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the cooperative's interest in a nuclear powerplant or nuclear powerplant unit;

(2) any distribution from a trust, fund, or instrument established to pay any nuclear decommissioning costs; or

(3) any earnings from a trust, fund, or instrument established to pay any nuclear decommissioning costs.

Treatment of income from asset exchange or conversion transactions

The bill provides that gain realized by a tax-exempt rural electric cooperative from a voluntary exchange or involuntary conversion of certain property is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). This provision applies only to the extent that: (1) the gain would qualify for deferred recognition under section 1031 or section 1033 (as the case may be) if the income is received or accrued by a tax-exempt rural electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative; (2) the gain is deferred or not recognized under a tax-exempt rural electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative.

The bill also excludes income received or accrued by rural electric cooperatives from load loss transactions from the tax on unrelated trade or business income. The bill provides that income from load loss transactions by taxable electric cooperatives if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative.

Taxable electric cooperatives.—The bill provides that the receipt or accrual of income from load loss transactions by taxable electric cooperatives is treated as income from patrons who are members of the cooperative. Thus, income from a load loss transaction is excludable from the taxable income of a taxable electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative. The bill also provides that income from load loss transactions does not cause a taxable electric cooperative to fail to be treated for Federal income tax purposes as a mutual or cooperative electric utility. The term "load loss transaction" is defined as a transaction that would qualify for deferred recognition under section 1031 or section 1033 (relating to involuntary conversion of property held for productive use or investment) or section 1033 (relating to involuntary conversions); and (2) the replacement property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes property that is used, or to be used, for the purpose of generating, transmitting, distributing, or selling electricity or methane-based natural gas.

Treatment of cancellation of indebtedness income from prepayment of certain loans

The bill provides that income from the prepayment of a bond, debt, or obligation as member income of a tax-exempt rural electric cooperative that is originated, insured, or guaranteed by the Federal Government under the Rural Electric Mortgage Loan Program is excluded in determining whether the cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12).

The bill also provides that the receipt or accrual of income from prepayment of certain loans by a tax-exempt rural electric cooperative is treated as income from patrons who are members of the cooperative. To facilitate the implementation of this provision, the bill provides that income from prepayment of certain loans by a tax-exempt rural electric cooperative is treated as income from patrons who are members of the cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative. The bill also provides that the receipt or accrual of income from prepayment of certain loans by a tax-exempt rural electric cooperative is treated as income from patrons who are members of the cooperative. The term "prepayment of certain loans" is defined as a transaction that would qualify for deferred recognition under section 1031 or section 1033 (relating to involuntary conversion of property held for productive use or investment) or section 1033 (relating to involuntary conversions); and (2) the replacement property that is acquired by the cooperative pursuant to section 1031 or section 1033 (as the case may be) constitutes property that is used, or to be used, for the purpose of generating, transmitting, distributing, or selling electricity or methane-based natural gas.

C. Sales or Dispositions to Implement Federal Energy Regulatory Commission or State Electric Restructuring Policy (Sec. 603 of the bill and sec. 451 of the Code)

Present law

Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Reasons for change

The Committee recognizes that electric deregulation has been occurring, and is continuing, at the Federal and state level. Federal and state energy regulators are calling for the "unbundling" of electric transmission assets held by vertically integrated utilities, with the transmission assets ultimately placed under the ownership or control of independent transmission providers (or other similarly approved operators). This policy is intended to improve transmission management and facilitate the formation of competitive markets. To facilitate the implementation of these policy objectives, the Committee believes it is appropriate to assist taxpayers in moving forward with industry restructuring by providing a tax deferral for gain associated with certain dispositions of electric transmission assets.

Explanation of provision

The provision permits a taxpayer to elect to recognize gain from a qualifying electric transmission transaction a maximum of once every eighty years, subject to certain limitations imposed by the employer during 1993. The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount paid by the employer in the previous year. No deduction is allowed for the portion of the wages equal to the amount of the credit.

The provision is effective for transactions occurring after the date of enactment.

Title VII—Additional Provisions

A. Extension of Accelerated Depreciation and WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS (Sec. 701 of the bill and secs. 45A and 168(k) of the Code)

Present law

Present law includes the following tax incentives for businesses located within Indian reservations.

Accelerated depreciation

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions (see section 168(k)) will be determined using the following recovery periods:

- 3-year property
- 5-year property
- 7-year property
- 10-year property
- 15-year property
- 20-year property
- Nonresidential real property

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not located outside the reservation in a regular manner, (3) not acquired predatory, or indirectly from a person who is related to the taxpayer, and (4) not described in the recovery-period table above. In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities. Certain "qualified infrastructure property" may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located on the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities). The accelerated depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax.
Qualified wages means wages paid or incurred by an employer for services performed by a qualified employee. A qualified employee means any employee who is an enrolled member of an Indian tribe, who performs substantially all of the services within an Indian reservation, and whose principal place of abode while performing such services is on or near the reservation in which the services are performed. An employee will not be treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during the taxable year exceeds $30,000 (adjusted for inflation after 1993).

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before December 31, 2004.

EXPLANATION OF PROVISION

Explanation

The provision extends the accelerated depreciation and wage credit tax incentives within Indian reservations will both increase the supply of energy and expand business and employment opportunities in these areas.

REASONS FOR CHANGE

Reasons

The Committee recognizes the significant potential on Indian lands for development of energy resources and other projects. The special nature of Native American tribes and high poverty rates in certain areas in some circumstances create unique barriers to development that these incentives help overcome. The Committee understands that a significant portion of these incentives are used in energy projects.

The Committee concluded that extending the accelerated depreciation and wage credit tax incentives within Indian reservations will both increase the supply of energy and expand business and employment opportunities in these areas.

REASON FOR CHANGE

Reason

The provision extends the accelerated depreciation and wage credit tax incentives within Indian reservations.

EFFECTIVE DATE

Effective Date

The provision is effective on the date of enactment.

B. GAO STUDY

(Sec. 702 of the bill)

PRESENT LAW

Present law does not require study of the present law provisions relating to clean fuel vehicles and electric vehicles.

REASONS FOR CHANGE

Reasons

The Committee believes it is important to gain information on the value of benefits compared to costs in order to make informed decisions regarding the propriety of special tax treatments. Such comparisons must take into account various externalities such as pollution, energy conservation, and energy efficiency. The Committee believes it is important to have information on the economic impact of the tax provisions discussed above.

EXPLANATION OF PROVISION

Explanation

The bill directs the Comptroller General to conduct a study of the tax provisions and submit annual reports to Congress beginning not later than December 31, 2004.

EFFECTIVE DATE

Effective Date

The provision is effective on the date of enactment.

C. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS

(Sec. 703 of the bill and secs. 4041 and 4042 of the Code)

PRESENT LAW

Under present law, diesel fuel used in trains is subject to a 4.4-cents-per-gallon excise tax. However, the 0.1 cent per gallon for the Leaking Underground Storage Tank (“LUST”) Trust Fund.

Similarly, fuel used in barges operating on the designated inland waterways system is subject to a 1.0-cents-per-gallon excise tax. This tax is in addition to the 20.1-cents-per-gallon tax rates that is imposed on fuels used in these barges to fund the LUST Trust Fund.

In both cases, the 4.3-cents-per-gallon excise tax rates are permanent. The LUST Trust Fund tax is scheduled to expire after March 31, 2005.

REASONS FOR CHANGE

Reasons

The Committee notes that in 1993, the Congress enacted the present-law 4.3-cents-per-gallon excise tax on motor fuels as a deficit reduction measure, with the receipts payable to the General Fund. Since that time, the Committee believes that generally only rail and barge operators remain as motor fuel users subject to the 4.3-cents-per-gallon excise tax who receive no significant benefits from the tax. The Committee finds that generally only rail and barge operators remain as motor fuel users subject to the 4.3-cents-per-gallon excise tax who receive no significant benefits from the tax. The Committee concludes that the tax is inequitable and distortive of energy consumption and reduced air pollution in comparison to estimates of the revenue cost of these provisions to the U.S. Treasury. The studies should include an analysis of the distribution of the taxpayers who utilize these provisions by income and other relevant characteristics.

The bill directs the Comptroller General to submit annual reports to Congress beginning not later than December 31, 2004.

EFFECTIVE DATE

The provision is effective on the date of enactment.

D. MODIFY RESEARCH CREDIT FOR RESEARCH RELATING TO ENERGY

(Sec. 704 of the bill; secs. 41C and 41D of the Code)

PRESENT LAW

General rule

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer’s qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will be limited to amounts paid or incurred after June 30, 2004.

A 20-percent research tax credit also applies to the excess of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities and (certain nonprofit social science research organizations) (Sec. 41C) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the university basic research credit (see sec. 41(e)).

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-based percentage (that is, lower than the fixed-base percentage other taxpayers are subject to) and the 20.1 percent credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 2.65 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent (i.e., the base amount equals one percent of the taxpayer’s average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applies to the extent that a taxpayer’s current-year research expenses exceed a base amount computed by using a fixed-base percentage of two percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year before June 30, 1996, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Eligible expenses

Qualified research expenses eligible for the research tax credit consist of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted on the taxpayer’s behalf (so-called contract research expenses). In the case of amounts paid to a research institution, 75 percent of amounts paid for qualified research expenses is treated as qualified research expenses eligible for the research tax credit (rather than 65 percent under the general rule) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(4) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer or one or more persons not related to the taxpayer.
that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which must constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component.

REASONS FOR CHANGE

The Committee believes that research into energy production and energy conservation will be needed to maintain and enhance energy independence in the future.

EXPLANATION OF PROVISION

The bill modifies the present-law research credit as it applies to qualified energy research expenditures. The provision provides that the taxpayer may claim a credit equal to 20 percent of the taxpayer’s expenditures on qualified energy research undertaken by an energy research consortium. The amount of credit claimed is determined only by regard to such expenditures by the taxpayer within the taxable year. Unlike the general rule for the research credit, the 20-percent credit for research by an energy research consortium applies to all such expenditures, not only those in excess of a base amount however defined. An energy research consortium must qualify as a qualified energy research consortium as under present law that also is organized and operated primarily to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, at least 80 percent of all qualified energy research expenditures that are allocated to no single person shall pay or incur more than 50 percent of the total amounts received by the research consortium during the calendar year.

The bill also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business for this purpose is a business in which the taxpayer does not own a 50 percent or greater interest in the business as employed, on average, 500 or fewer employees in the two preceding calendar years.

Qualified energy research expenditures are expenses that are other than expenditures for the research credit under present law and relate to the production, supply, and conservation of energy, including otherwise qualified energy research expenditures related to alternative energy sources or the use of alternative energy sources. For example, research relating to hydrogen fuel cell vehicles would qualify under this provision, if the research expenditures otherwise satisfy the criteria of present-law sec. 41. Likewise, otherwise qualifying research undertaken to improve alternative energy sources or lighting would qualify under this provision.

EFFECTIVE DATE

The provision is effective for amounts paid or incurred after the date of enactment in taxable years after such date.

TITLE VIII—REVENUE PROVISIONS

A. PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

1. Penalty for failure to disclose reportable transactions (see section 6011 of the bill and new sec. 6707A of the Code)

PRESENT LAW

Regulations under section 6011 require a taxpayer to disclose with its tax return certain transactions by which it engages in each “reportable transaction” in which the taxpayer participates.

There are six categories of reportable transactions. The first category is any transaction that is the same as (or substantially similar to) a transaction that is specified by the Treasury Department as an avoidance transaction whose tax benefits are subject to disallowance under present law (referred to as a “listed transaction”).

The second category is any transaction that is offered under conditions of confidentiality. In general, if a taxpayer’s disclosure of the structure or tax aspects of the transaction would cause an action express or implied understanding or agreement with or for the benefit of any person who makes or provides a statement, oral or written, as to the potential tax consequences that may result from the transaction, it is considered offered under conditions of confidentiality (whether or not the understanding is legally binding).

The third category of reportable transactions is any transaction for which (1) the taxpayer has the right to a full or partial refund of fees if the intended tax consequences from the transaction are not sustained or, (2) the fees are contingent on the intended tax consequences from the transaction being sustained.

The fourth category of reportable transactions relates to any transaction resulting in a tax credit exceeding $250,000 (including a foreign tax credit) of at least (1) $10 million in any single year or $20 million in any combination of years by a corporate taxpayer or a partner thereof with gross receipts in excess of $50 million in any single year or $100 million in any combination of years by all other partnerships, corporations, trusts, and individuals; or (3) $500,000 in any single year for individuals or trusts if the loss arises with respect to foreign currency translation losses.

The fifth category of reportable transactions pertains to any transaction done by certain taxpayers in which the tax treatment of the transaction differs (or is expected to differ) by more than $10 million from its treatment for book purposes (using generally accepted accounting principles) in any year.

The final category of reportable transactions is any transaction that results in a tax credit exceeding $250,000 (including a foreign tax credit) if the taxpayer holds the underlying asset for less than 46 days under present law. Under present law, the specific penalty for failing to disclose a reportable transaction; however, such a failure may jeopardize a taxpayer’s ability to claim that any income or deduction attributable to such undisclosed transaction is due to reasonable cause, and that the taxpayer acted in good faith.

REASONS FOR CHANGE

The Committee is aware that individuals and corporations are increasingly using sophisticated transactions to avoid or evade Federal income tax. Such a phenomenon is evident as any individual whose net worth exceeds $2 million, based on the fair market value of the individual’s assets and liabilities immediately before entering into the transaction, is defined as a high net worth individual.

The Committee over two years ago began working on legislation to address this significant compliance problem. In addition, the Treasury Department has observed that the tools available, issued regulations requiring disclosure of certain transactions and requiring organizers and promoters of tax-engineered transactions to prepare and make these lists available to the IRS. Nevertheless, the Committee believes that additional legislation is needed to provide the Treasury Department with additional tools to permit it to assist its efforts to curtail abusive transactions. Moreover, the Committee believes that a penalty for failing to make the required disclosures, when the imposition of such penalty is not dependent on the tax treatment of the underlying transaction ultimately being sustained, will provide an additional incentive for taxpayers to satisfy their reporting obligations under their new disclosure provisions.

In general

The bill creates a new penalty for any person who fails to include with any return or statement any required information with respect to a reportable transaction. The penalty applies without regard to whether the transaction ultimately results in an understatement of tax, and applies in addition to any accuracy-related penalty that may be imposed.

Transactions to be disclosed

The bill does not define the terms “listed transaction” or “reportable transaction,” nor does the bill explain the type of information that must be disclosed in order to avoid the imposition of a penalty. Rather, the bill authorizes the Treasury Department to define a “listed transaction” and a “reportable transaction” under section 6011.

Penalty rate

The penalty for failing to disclose a reportable transaction (or “listed transaction”) is increased to $100,000 if the failure is with respect to a listed transaction. For large entities and high net worth individuals, the penalty is doubled if the failure involves a reportable transaction and $200,000 for a listed transaction. The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only if: (1) the taxpayer on whom the penalty is imposed has a history of complying with the Federal tax laws; (2) it is shown that the violation is due to an unintentional mistake of fact; (3) imposing the penalty would be against equity and good conscience; and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the IRS Commissioner personally or the head of the Office of Tax Shelter Analysis. Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or any other IRS personnel. The decision to rescind a penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no taxpayer right to appeal a refusal to rescind a penalty. The IRS also is required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing a description of each penalty rescinded under this provision and the reasons for the rescission.

A “large entity” is defined as any entity with gross receipts in excess of $10 million in the year of the transaction or in the preceding year. A “high net worth individual” is defined as any individual whose net worth exceeds $2 million, based on the fair market value of the individual’s assets and liabilities immediately before entering into the transaction.

A public entity that is required to pay a penalty for failing to disclose a listed transaction (or is subject to an understatement penalty attributable to a listed transaction or a non-disclosed reportable avoidance transaction) must disclose the imposition of the penalty in reports to the Securities and Exchange Commission until such period as the Secretary shall specify. The bill applies without regard to whether the taxpayer determines the amount of the penalty for the above purposes and to the extent to which the penalty must appear, and treats any failure to disclose a transaction in such reports.
as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the Securities and Exchange Commission once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

**Effective Date**

The bill is effective for returns and statements due after the date of enactment.

2. Modifications to the accuracy-related penalty applicable to reportable transactions having a significant tax avoidance purpose (Sec. 822 of the bill and new Sec. 6662A of the Code)

**Present Law**

The accuracy-related penalty applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation misstatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 ($10,000 in the case of corporate taxpayers), the understatement is attributable to a tax attributable to the understatement. The amount of any understatement penalty generally is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment. Special rules apply with respect to tax shelters.

For understatements by non-corporate taxpayers attributable to tax shelters, the penalty may be avoided if the taxpayer discloses the understatement to the IRS by the due date for which is after the date of enactment. For understatements by corporate taxpayers attributable to tax shelters, the penalty is applied to the amount of any understatement attributable to the list- ed transaction (or transaction with a significant tax avoidance purpose) that is not adequately disclosed. The strengthened reasonable cause exception applies if the taxpayer satisfies certain requirements (hereinafter referred to as a "strengthened reasonable cause exception"), which is described below. The strengthened reasonable cause exception is available only if the IRS (1) determines the amount of the understatement, (2) determines the amount of the penalty, and (3) that the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

**Undisclosed transactions**

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is unavailable (i.e., the strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understate- ment. In addition, a public entity that is required to pay the 30 percent penalty must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC must include whether the taxpayer (1) is based on unreasonable factual assumptions (including assumptions (including assumptions that (a) a return will not be audited, (b) the transaction will not be challenged, (c) the treatment of an item shall not take place, or if earlier, when paid).

The strengthened reasonable cause exception is available (1) if the taxpayer reasonably believed that such treatment was more likely than not the proper treatment, and (2) if raised by the IRS when the taxpayer did not disclose the transaction.

**Reasons for Change**

Because the Treasury shelter initiative emphasizes combating abusive tax avoidance transactions by requiring increased disclosure of such transactions by all parties involved, the Committee believes that taxpayers should be subject to a strict liability penalty on an understatement of tax that is attributable to non-disclosed listed transactions or non-disclosed reportable transactions that have a significant purpose of tax avoidance. Furthermore, in order to deter taxpayers from entering into tax avoidance transactions the Committee believes that a more meaningful (but less stringent) accuracy-related penalty should apply to such transactions even when disclosed.

**Explanation of Provision**

In general, the bill modifies the present-law accuracy related penalty by replacing the rules applicable to tax shelters with a new accuracy-related penalty that applies to listed transactions and reportable transactions with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

**Disclosed transactions**

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction without regard to other items on the tax return. For purposes of this bill, the amount of the understatement is determined as the sum of (1) the understatement attributable to the transaction (without regard to other items on the tax return), and (2) the amount of any decrease in the aggregate amount of credits or deductions attributable to the transaction as a result of the taxpayer's treatment of the item and the proper tax treatment of such item.

Exempt from this rule are new Tax Code provisions that may make it less likely that the taxpayer will rely on an opinion of a tax advisor in establishing substantial authority for the position, a taxpayer will be treated as having adequately disclosed a penalty if the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

**Undisclosed transactions**

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is unavailable (i.e., the strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understate- ment. In addition, a public entity that is required to pay the 30 percent penalty must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC must include whether the taxpayer (1) is based on unreasonable factual assumptions (including assumptions that (a) a return will not be audited, (b) the transaction will not be challenged, (c) the treatment of an item shall not take place, or if earlier, when paid).

The strengthened reasonable cause exception is available (1) if the taxpayer reasonably believed that such treatment was more likely than not the proper treatment, and (2) if raised by the IRS when the taxpayer did not disclose the transaction.

**Reasons for Change**

Because the Treasury shelter initiative emphasizes combating abusive tax avoidance transactions by requiring increased disclosure of such transactions by all parties involved, the Committee believes that taxpayers should be subject to a strict liability penalty on an understatement of tax that is attributable to non-disclosed listed transactions or non-disclosed reportable transactions that have a significant purpose of tax avoidance. Furthermore, in order to deter taxpayers from entering into tax avoidance transactions the Committee believes that a more meaningful (but less stringent) accuracy-related penalty should apply to such transactions even when disclosed.

**Explanation of Provision**

In general, the bill modifies the present-law accuracy related penalty by replacing the rules applicable to tax shelters with a new accuracy-related penalty that applies to listed transactions and reportable transactions with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

**Disclosed transactions**

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction without regard to other items on the tax return. For purposes of this bill, the amount of the understatement is determined as the sum of (1) the understatement attributable to the transaction (without regard to other items on the tax return), and (2) the amount of any decrease in the aggregate amount of credits or deductions attributable to the transaction as a result of the taxpayer's treatment of the item and the proper tax treatment of such item.

Exempt from this rule are new Tax Code provisions that may make it less likely that the taxpayer will rely on an opinion of a tax advisor in establishing substantial authority for the position, a taxpayer will be treated as having adequately disclosed a penalty if the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

**Undisclosed transactions**

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is unavailable (i.e., the strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understate-ment. In addition, a public entity that is required to pay the 30 percent penalty must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC must include whether the taxpayer (1) is based on unreasonable factual assumptions (including assumptions that (a) a return will not be audited, (b) the transaction will not be challenged, (c) the treatment of an item shall not take place, or if earlier, when paid).

The strengthened reasonable cause exception is available (1) if the taxpayer reasonably believed that such treatment was more likely than not the proper treatment, and (2) if raised by the IRS when the taxpayer did not disclose the transaction.
agreements of the taxpayer or any other person, (3) does not identify and consider all relevant facts, or (4) fails to meet any other requirement prescribed by the Secretary.

Coordination with other penalties
Any penalty upon which a penalty is imposed under this bill is not subject to the accuracy-related penalty under section 6662. However, such understatement is included for purposes of determining whether any understatement (as defined in section 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1).

Disclosure of reportable transactions with respect to aid, assistance, or advice. A disclosure of reportable transactions with respect to aid, assistance, or advice (including a listed transaction) is treated as similar tax avoidance or evasion Federal income tax by a corporate participant; (2) the arrangement is offered under confidentiality, and (3) the promoter may receive fees in excess of $100,000 in the aggregate.

In general, a transaction has a "significant purpose of avoiding Federal income tax" if the transaction: (1) is the same as or substantially similar to a "listed transaction," 101 or (2) is structured to produce tax benefits that are important part of the intended results of the arrangement and the promoter reasonably expects to present the arrangement to more than one taxpayer. Certain arrangements are provided with respect to the second category of transactions.

An arrangement is offered under conditions of confidentiality if, (1) an offeree has an understanding or agreement to limit the disclosure of the transaction or any significant tax features of the transaction; or (2) the promoter knows, or has reason to know, that the offeree's use or disclosure of information relating to the transaction is limited in any other way.

Failure to register tax shelter
The penalty for failing to timely register a tax shelter (or for filing false or incomplete information with respect to the tax shelter registration) generally is the greater of 10 percent of the aggregate amount invested in the shelter or $500. However, if the tax shelter involves an arrangement offered to a corporation, the penalty is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of registration. Intentional disregard of the requirement to register increases the penalty to 75 percent of the aggregate fees.

Section 6070 also imposes (1) a $100 penalty on the promoter for each failure to furnish the investor with the required tax shelter identification number, and (2) a $250 penalty on the investor for each failure to include the tax shelter identification number on a return.

Reasons for change
The Committee believes that the present law with respect to registration of tax shelters should be applied to all tax shelters, regardless of whether or not the participant is a corporation.

Explanation of provision
The bill modifies the rule relating to corporate tax shelters by making it applicable to all tax shelters, whether entered into by corporations, individuals, partnerships, tax-exempt entities, or other entity. Accordingly, communications with respect to tax shelters are not subject to the confidentiality provision of the Code that otherwise applies to a communication between a taxpayer and a federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney. This rule is inapplicable to communications regarding corporate tax shelters.

Effective date
The bill is effective for taxable years ending after the date of enactment.

Disclosure of reportable transactions with respect to aid, assistance, or advice
The bill repeals the present law penalty for failure to register tax shelters. Instead, the bill imposes a penalty on any material advisor who fails to file an information return, or who files a false or incomplete information return, with respect to a reportable transaction (including a listed transaction). The amount of the penalty is $50,000. If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) $200,000, or (2) 50 percent of the gross income of such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. Intentional disregard of a material advisor of the requirement to register the transaction increases the penalty to 75 percent of the gross income.

The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only in exceptional circumstances. All or part of the penalty may be rescinded only in cases in which the material advisor on whom the penalty is imposed has a history of complying with the Federal tax laws, (2) it is shown that the violation is due to an unintentional mistake of fact, (3) theadvisor is seeking the penalty would be against equity and good conscience, and (4) rescinding the penalty would promote compliance with the tax laws and effective tax administration. The authority to rescind the penalty can only be exercised by the Commissioner personally or the head of the Office of Tax Shelter Analysis. The authority to rescind otherwise be delegated by the Commissioner.

Thus, the penalty cannot be rescinded by a revenue agent, an Appeals officer, or other designated personnel. The decision to rescind the penalty must be accompanied by a record describing the facts and reasons for the action and the amount rescinded. There will be no right of appeal from a refusal to rescind.

The IRS is also required to submit an annual report to Congress summarizing the application of the disclosure penalties and providing information on the basis of the penalties imposed under this provision and the reasons for the rescissions.
The provision requiring disclosure of reportable transactions by material advisors applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

The provision imposing a penalty for failing to disclose reportable transactions applies to returns filed for events for which with respect to which registration was required under section 6111 (even though the particular party may not have been subject to confidentiality restrictions). Recently issued regulations under section 6112 contain rules regarding the list maintenance requirements. In general, the regulations apply to transactions that are potentially abusive tax shelters entered into, or acquired after, February 28, 2003.

The regulations provide that a person is an originator or seller of a potentially abusive tax shelter if the person is a material advisor with respect to that transaction. A material advisor is defined as a person who is required to register the transaction under section 6111, or expects to receive a minimum fee of (1) $25,000 for a transaction that is a potentially abusive tax shelter if all related persons are corporations, or (2) $50,000 for any other transaction that is a potentially abusive tax shelter. For listed transactions (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A potentially abusive tax shelter is any transaction that (1) is required to be registered under section 6111, or (2) is listed (as defined under the regulations under section 6011), or (3) any transaction that a potential material advisor, at the time the transaction is entered into, knows is or reasonably expects will become a reportable transaction (including a listed transaction).

The Secretary is required to prescribe regulations which provide that, in cases in which 2 or more persons are required to maintain the list, only one person would be required to maintain the list.

Penalties for failing to maintain investor lists

Under section 6070c, the penalty for failing to maintain the list required under section 612 is $50 for each name omitted from the list (with a maximum penalty of $100,000 per year).

The Committee has been advised that the present penalties for failure to maintain customer lists are not meaningful and that promoters often have refused to provide requested information to the IRS. The Committee believes that requiring material advisors to maintain a list of advisees with respect to reportable transactions, coupled with more meaningful penalties for failing to maintain the list, are important tools in the ongoing efforts to curb the use of abusive tax avoidance transactions.

The provision requiring material advisor to maintain an investor list applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalty for failure to maintain investor lists

The provision requiring material advisor to maintain an investor list applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalty for failure to maintain investor lists

The bill imposes the penalty for failing to maintain the required list by making it a time-sensitive penalty. If a material advisor who is required to maintain an investor list and who fails to make the list available upon request by the Secretary within 10 business days, will be subject to a $10,000 per day penalty. The penalty applies to a person who fails to maintain a list, maintains an incomplete list, or has in fact maintained a list but does not make the list available to the Secretary. The penalty can be waived if the failure to make the list available is due to reasonable cause.

The provision imposing a penalty for failing to maintain investor lists applies to requests made after the date of enactment.

Penalties on promoters of tax shelters

A promoter of a tax shelter is defined as any person who is required to identify each person who was sold an interest in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision eliminating a penalty for failing to maintain an investor list applies to transactions that (1) is required to be registered under section 6111, or (2) is listed (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The bill makes the penalty amount to equal 50 percent of the gross income derived by the person from the activity for which the penalty is imposed. The rate applies to any activity that involves a statement regarding the tax benefits of participating in a plan or arrangement if the person knows or has reason to know that such statement is false or fraudulent as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalty for failure to maintain investor lists

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalties on promoters of tax shelters

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision eliminating a penalty for failing to maintain an investor list applies to transactions that (1) is required to be registered under section 6111, or (2) is listed (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalty for failure to maintain investor lists

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalties on promoters of tax shelters

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision eliminating a penalty for failing to maintain an investor list applies to transactions that (1) is required to be registered under section 6111, or (2) is listed (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalty for failure to maintain investor lists

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.

Penalties on promoters of tax shelters

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision eliminating a penalty for failing to maintain an investor list applies to transactions that (1) is required to be registered under section 6111, or (2) is listed (as defined in the regulations under section 6011), the minimum fees are reduced to $25,000 and $10,000, respectively.

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a portable transaction (including a listed transaction), if in connection with such activity the person makes or furnishes a qualified false or fraudulent statement or a gross valuation overstatement. A qualified false or fraudulent statement is any statement as to any material matter. The enhanced penalty does not apply to a gross valuation overstatement.

The provision imposing a penalty for failure to maintain investor lists applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment.
In addition, foreign corporations generally are subject to a gross-basis U.S. tax at a flat 30-percent rate on the receipt of interest, dividends, rents, royalties, and certain similar types of income from U.S.-source subject certain exceptions. The tax generally is collected by means of withholding by the person making the payment. This tax may be reduced or eliminated under an applicable tax treaty.

U.S. tax treatment of inversion transactions

Under present law, U.S. corporations may reincorporate in foreign jurisdictions and thereby become parent corporations of a multinational corporate group with a foreign parent corporation. These transactions are commonly referred to as "inversion" transactions. Inversion transactions may take many different forms, including stock inversions, asset inversions, and various combinations of and variations on the two. Most of the known transactions to date have been stock inversions. In one example of a stock inversion, a U.S. corporation forms a foreign corporation, which in turn forms a domestic merger subsidiary. The domestic merger subsidiary then merges into the U.S. corporation, with the U.S. corporation surviving, now as a subsidiary of the new foreign top-tier corporation, or "top-tier corporation." The U.S. corporation's shareholders receive shares of the foreign corporation and are treated as having exchanged their U.S. corporation shares for the former U.S. corporation's net worth. An inversion transaction analogous to this procedure, the taxpayer will be required

EXPLANATION OF PROVISION

In general

The provision defines two different types of corporate inversion transactions and establishes a different set of consequences for each type. Certain partnership transactions also are covered.

Transactions involving at least 80 percent identity of stock ownership

The first type of inversion is a transaction in which, pursuant to a plan or a series of related transactions, a U.S. corporation becomes a subsidiary of a foreign-incorporated entity or otherwise transfers substantially all of its properties to such an entity; (2) the former shareholders of the U.S. corporation hold (by reason of holding stock in the U.S. corporation) 80 percent or more (by vote or value) of the stock of the foreign-incorporated entity after the transaction; and (3) the former shareholders are considered together with all companies connected to it by a chain of greater than 50 percent ownership (i.e., the "expanded affiliated group"), does not have substantial business activities in the entity's country of incorporation, compared to the total worldwide business activities of the expanded affiliated group. The presence of certain types of business activities of the former corporation may cause it to lose this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Code. The provision, therefore, is subject to "toll charges," any applicable corporate-level income or gain required to be recognized under sections 368(a) (ii), 367, 1001, 1248, or any other provision with respect to the transfer of controlled foreign corporation stock or other assets by a U.S. corporation as part of the inversion transaction or after such transaction to a related foreign person, is taxable, without offset by any tax attributes (e.g., net operating losses or foreign tax credits). To the extent provided in regulations, this rule will not apply to certain transactions and similar transactions conducted in the ordinary course of the taxpayer's business.

In order to enhance IRS monitoring of related-party transactions, the provision establishes a new pre-filing procedure. Under this procedure, the taxpayer will be required
annually to submit an application to the IRS for an agreement that all return positions to be taken by the taxpayer with respect to related-party transactions comply with all relevant provisions of the Code, including sections 163(j), 267(a)(3), 482, and 845. The Treasury Secretary is authorized to specify the form, content, and supporting information for this application, as well as the timing for its submission.

The IRS will be required to take one of the following three actions within 90 days of receipt of an application: (1) conclude an agreement with the taxpayer that the return positions to be taken with respect to related-party transactions are relevant with all relevant provisions of the Code; (2) advise the taxpayer that the IRS is satisfied that the application was made in good faith and substantially complies with the requirements set forth by the Treasury Secretary for such an application, but that the IRS reserves substantive judgment as to the tax treatment of the relevant transactions pending the normal audit process; or (3) advise the taxpayer that the IRS has concluded that the application was not made in good faith or does not substantially comply with the requirements set forth by the Treasury Secretary.

In the case of a compliance failure described in (3) above, the following sanctions will apply for the taxable year for which the application was required: (1) no deductions or additions to the cost of goods sold for payments to foreign related parties will be permitted; (2) any transfers or licenses of intangible property to related foreign parties will be disregarded; and (3) any cost sharing arrangements will not be respected. In such a case, the taxpayer may seek direct review by the U.S. Court of the IRS's determination of compliance failure.

If the IRS fails to act on the taxpayer's application within 90 days of receipt, then the taxpayer will be treated as having submitted an application in good faith an application that substantially complies with the above-referenced requirements. Thus, the deduction disallowance and other sanctions described above will not apply, but the IRS will be able to examine the transactions at issue under the normal audit process. The IRS is authorized to request a taxpayer to prepare a report that applies to property transferred in connection with the performance of services (section 83). If a nonstatutory stock option does not have a readily ascertainable fair market value at the time of grant, which is generally the case unless the option is actively traded on an established market, no amount is included in the gross income of the recipient with respect to the option until the recipient exercises the option. Upon exercise of such an option, the excess of the fair market value of the stock purchased over the option price is included in the recipient's gross income as ordinary income in the taxable year in which the right to acquire the stock is exercisable.

The tax treatment of other forms of stock-based compensation (e.g., restricted stock and stock appreciation rights) is also determined using the fair market value over the amount paid (if any) for such property, which is generally included in gross income in the first taxable year in which the right to acquire the stock is exercisable. Stock compensation is subject to an excise tax if the value of the payment or right is based on, or determined by reference to, the value or change in value of stock or an increase in the value of stock of such corporation (or any member of the corporation's expanded affiliated group). In determining whether such compensation exists and valuing such compensation, all restrictions, other than non-lapse restrictions, are ignored. The excise tax applies, and the value subject to the tax is determined, without regard to whether specified stock compensation is subject to a substantial risk of forfeiture or exercisable at the time of the inversion transaction. Specified stock compensation includes compensatory stock and restricted stock grants, compensatory stock options, and other forms of stock-based compensation, including stock appreciation rights, phantom stock, and stock phantom options. Specified stock compensation also includes nonqualified deferred compensation that is treated as though it was invested in stock or other options of the corporation (or member). For example, the provision applies to a disqualified individual's deferred compensation if company stock is one of the actual or deemed investment options under the nonqualified deferred compensation plan. Specified stock compensation includes a compensation arrangement that gives the deferred compensation to a stock or where a payment depends on a performance measure other than the value of the corporation's stock. Similarly, the tax does not apply if the stock or increase in the value of the stock is not directly measured by the value of the stock or an increase in the value of

The regime applicable to transactions involving at least 80 percent identity of ownership applies to inversion transactions completed after March 20, 2002. The rules for inversion transactions involving greater than 50 percent identity of ownership apply to inversion transactions completed after 1996 that meet the 50 percent test and to inversion transactions completed after 1996 that would have failed the 50 percent test but for the March 20, 2002 date.

Excise tax on stock compensation of insiders of inverted corporations (section 275(a) of the Code) is triggered if the corporation (or any member of the corporation's expanded affiliated group) grants stock or stock options to a disqualified individual. Specified stock compensation subject to the excise tax includes any payment (or right to payment) granted by the inverted corporation (or any member of the corporation's expanded affiliated group) to any person in connection with the performance of services by a disqualified individual for such corporation (or member of the corporation's expanded affiliated group) if the value of the payment or right is based on, or determined by reference to, the value or change in value of stock or an increase in the value of stock of such corporation (or any member of the corporation's expanded affiliated group). In determining whether such compensation exists and valuing such compensation, all restrictions, other than non-lapse restrictions, are ignored. The excise tax applies, and the value subject to the tax is determined, without regard to whether specified stock compensation is subject to a substantial risk of forfeiture or exercisable at the time of the inversion transaction. Specified stock compensation includes compensatory stock and restricted stock grants, compensatory stock options, and other forms of stock-based compensation, including stock appreciation rights, phantom stock, and stock phantom options. Specified stock compensation also includes nonqualified deferred compensation that is treated as though it was invested in stock or other options of the corporation (or member). For example, the provision applies to a disqualified individual's deferred compensation if company stock is one of the actual or deemed investment options under the nonqualified deferred compensation plan. Specified stock compensation includes a compensation arrangement that gives the deferred compensation to a stock or where a payment depends on a performance measure other than the value of the corporation's stock. Similarly, the tax does not apply if the stock or increase in the value of the stock is not directly measured by the value of

The Committee believes that certain inversion transactions are a means of avoiding the taxes that would otherwise be paid by the shareholders. The Committee is concerned that, while shareholders are generally required to recognize gain upon stock inversion transactions, executives are generally required to recognize gain upon stock options and other forms of stock-based compensation. An inversion transaction is generally not a taxable event for holders of stock options and other stock-based compensation. A provision that is subject to an excise tax upon certain inversion transactions.

The provision imposes a 20 percent excise tax on the value of specified stock compensation held (directly or indirectly) by a disqualified individual. The excise tax applies where a disqualified individual, or a member of such individual's family, at any time during the 12-month period beginning six months before the effective date, owned more than 50 percent but less than 80 percent of the voting stock or a dismembered individual or a member of such individual's family, at any time during the 12-month period beginning six months before the effective date. Specified stock compensation is treated as held by a dismembered individual if such compensation is held by an entity (other than a disqualified individual, a member of such individual's family, or a member of such individual's family, at any time during the 12-month period beginning six months before the effective date, subject to section 16(a) of the Securities and Exchange Act of 1934 with respect to the corporation, or any member of the corporation's expanded affiliated group, or would be subject to such requirements if the corporation (or member) were an issuer of equity securities referred to in section 16(a). Disqualified individuals generally include officers, as defined by section 16(a) directors, and 10 percent owners of private and publicly-held corporations.

The excise tax is imposed on a disqualified individual of an inverted corporation only if gain (if any) is recognized in whole or part by shareholders. Specified stock compensation subject to the excise tax includes any payment (or right to payment) granted by the inverted corporation (or any member of the corporation's expanded affiliated group) to any person in connection with the performance of services by a disqualified individual for such corporation (or member of the corporation's expanded affiliated group) if the value of the payment or right is based on, or determined by reference to, the value or change in value of stock or an increase in the value of stock of such corporation (or any member of the corporation's expanded affiliated group). In determining whether such compensation exists and valuing such compensation, all restrictions, other than non-lapse restrictions, are ignored. The excise tax applies, and the value subject to the tax is determined, without regard to whether specified stock compensation is subject to a substantial risk of forfeiture or exercisable at the time of the inversion transaction. Specified stock compensation includes compensatory stock and restricted stock grants, compensatory stock options, and other forms of stock-based compensation, including stock appreciation rights, phantom stock, and stock phantom options. Specified stock compensation also includes nonqualified deferred compensation that is treated as though it was invested in stock or other options of the corporation (or member). For example, the provision applies to a disqualified individual's deferred compensation if company stock is one of the actual or deemed investment options under the nonqualified deferred compensation plan. Specified stock compensation includes a compensation arrangement that gives the deferred compensation to a stock or where a payment depends on a performance measure other than the value of the corporation's stock. Similarly, the tax does not apply if the stock or increase in the value of the stock is not directly measured by the value of the stock or an increase in the value of
The excise tax applies to any such specified stock compensation that is subsequently granted to a disqualified individual but cancelled or cashed-out within the six-month period ending with the inversion transaction, and to any specified stock compensation awarded in the six-month period beginning with the inversion transaction. As a result, for example, if a corporation were to cancel outstanding options three months before the transaction and then reissue comparable options three months after the transaction, the tax applies both to the canceled options and the reissued, newly-granted options. It is intended that the Treasury Secretary issue guidance to avoid double counting with respect to specified stock compensation that is canceled and then regranted during the applicable twelve-month period.

Specified stock compensation subject to the tax does not include a statutory stock option or any payment or right from a qualified retirement plan or annuity, a tax sheltered annuity, a simplified employee pension, or any other form of compensation to which the tentative computation rules do not apply. In addition, under the provision, the excise tax does not apply to any stock option that is exercised during the six-month period before the inversion or to any stock acquired pursuant to such exercise. The excise tax also does not apply to any specified stock compensation which is sold, exchanged, distributed or cashed-out during such period in a transaction in which gain or loss is recognized in full.

For specified stock compensation held on the inversion date, the amount of the tax is determined based on the value of the compensation on such date. The tax imposed on specified stock compensation canceling the six-month period before the inversion date is determined based on the value of the compensation on the day before such cancellation, which specified stock compensation is granted after the inversion date is valued on the date granted. Under the provision, the cancellation of a non-lapse restriction is treated as a grant.

The value of the specified stock compensation on which the excise tax is imposed is the fair market value of the share of stock at the valuation date; the exercise price under the option; the remaining term of the option; the exercise price under the option equals or exceeds the fair market value of the stock; the number of shares covered by the option; and the price at the valuation date. The value of any deferred compensation that could be valued by reference to stock is the amount that the disqualified individual would receive if the plan were to distribute all such deferred compensation in a single sum on the date of the inversion transaction. The value of any deferred compensation is treated as a grant.

The excise tax also applies to any payment by the inverted corporation or any member of the expanded affiliated group made to an individual, directly or indirectly, in respect of the tax. Whether a payment is made in respect of the tax is determined under all of the facts and circumstances. Any payment made to keep the individual in the same financial or economic position as he or she would have had if no payment is made in respect of the tax. This includes direct payments of the tax and payments to reimburse the individual for payment of the tax. It is expected that the Treasury Secretary will issue guidance on valuation of specified stock compensation, including guidance similar to that provided under section 280G, except that the guidance would not permit the use of a term other than the full remaining term. Pending the issuance of the Treasury Secretary’s guidance, it is anticipated that the excise tax is payable on the day before such cancellation, or the date of exercise of the option, or the date on which the disqualified individual would have received such payment if the tax had not applied.

The excise tax is not deductible by the corporation. Whether a payment is made in respect of the tax, including a rebuttable presumption that a payment is made in respect of the tax. Any payment made in respect of the tax is includible in the income of the individual, but is not deductible by the corporation.

To the extent that a disqualified individual is also a covered employee under section 162(m), the $1,000,000 limit on the deduction for compensation for such employee is reduced by the amount of any payment (including reimbursements) made in respect of the tax. The deduction for payments to reimburse the individual for payment of the tax is determined under all of the facts and circumstances. Any payment made in respect of the tax is determinable under all of the facts and circumstances. Any payment made in respect of the tax is includible in the income of the individual, but is not deductible by the corporation.

Under the provision, the Treasury Secretary may allocate amounts of compensation held or distributions of compensation (or any other amount that is subject to tax to specified stock compensation held or payments to reimburse the individual for payment of the tax) to one or more parties. For this purpose, it is intended that the authority under section 482 be exercised in a manner similar to that of the Commissioner of Internal Revenue for the purposes of the Code.

The provision clarifies the rules of section 485, relating to authority for the Treasury Secretary to allocate amounts among the parties to a reinsurance agreement, recharacterize items, or make any other adjustment in order to reflect the proper source and character of the items for each party. The provision also permits the Secretary to allocate amounts to establish a reinsurance transaction between U.S. and foreign parties (or agents or conduits). The provision also applies to any other adjustments in a case in which one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, a conduit between related persons. The provision also authorizes such allocation, recharacterization, or other adjustments in order to reflect the proper source and character of the items for each party.
other adjustment necessary to reflect the proper amount, source or character of the item.

**EFFECTIVE DATE**

The provision is effective for any risk insured April 2, 2002.

**C. EXPANSION OF IRS USER FEES**

(See sec. 831 of the bill and new sec. 7529 of the Code)

**PRESENT LAW**

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104-117 extended the statutory authorization for these user fees through September 30, 2003.

**REASONS FOR CHANGE**

The Committee believes that it is appropriate to provide a further extension of these user fees.

**EXPLANATION OF PROVISION**

The bill extends the statutory authorization for these user fees through September 30, 2013. The bill also moves the statutory authority for these fees into the Code.

**EFFECTIVE DATE**

The provision, including moving the statutory authority for these fees into the Code, is effective for requests made after the date of enactment.

**D. ADD VACCINES AGAINST HEPATITIS A TO THE LIST OF TAXABLE VACCINES**

(See sec. 842 of the bill and sec. 412 of the Code)

A manufacturer’s excise tax is imposed at the rate of 75 cents per dose on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, Hib (haemophilus influenza type B), hepatitis B, varicella (chicken pox), rotavirus gastroenteritis, and streptococcus pneumoniae. The tax applies to any vaccine that is a combination of vaccine components equal 75 cents times the number of components in the combined vaccine.

Amounts of excise taxes from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, “no fault” insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturer. All persons immunized after September 30, 1988 by vaccines must pay the compensation under this Federal program before bringing civil tort actions under State law.

**REASONS FOR CHANGE**

The Committee is aware that the Centers for Disease Control and Prevention have recommended that children in 17 highly endemic States be inoculated with a hepatitis A vaccine and that children be given U.S. Department of Health and Human Services’ Advisory Commission on Childhood Vaccines has recommended that the vaccine excise tax be extended to cover vaccines against hepatitis A. For these reasons, the Committee believes it is appropriate to include vaccines against hepatitis A as part of the Vaccine Injury Compensation Program. Making the hepatitis A vaccine taxable is a first step. In the unfortunate event of an injury related to this vaccine, families of injured children are eligible for compensation through the no-fault system established under the Vaccine Injury Compensation Program rather than going to Federal Court to seek compensatory redress.

**EXPLANATION OF PROVISION**

The bill adds any vaccine against hepatitis A to the list of taxable vaccines. The bill also makes a conforming amendment to the trust fund expenditure purposes.

**E. INDIVIDUAL EXPATRIATION TO AVOID TAX**

(See sec. 831 of the bill and secs. 877, 2107, 2901, and 6309 of the Code)

**PRESENT LAW**

U.S. citizens and residents generally are subject to U.S. income taxation on their worldwide income. The U.S. tax may be reduced or offset by a credit allowed for foreign income taxes paid with respect to foreign source income. Nonresidents who are nonresident aliens are taxed at a flat rate of 30 percent (or a lower treaty rate) on certain types of passive income derived from U.S. sources, and at regular graduated rates on net profits derived from U.S. trade or business.

An individual who relinquishes his or her U.S. citizenship or terminates his or her U.S. residency with a principal purpose of avoiding U.S. taxes is subject to an alternative method of income taxation for the 10 taxable years ending after the citizenship relinquishment or residency termination (the “alternative tax regime”). The alternative tax regime modifies the rules generally applicable to the taxation of nonresident noncitizens. For the 10-year period, the individual is subject to tax only on U.S.-source income at the rates applicable to U.S. citizens, rather than the rates applicable to nonresident noncitizens.

In addition, the alternative tax regime includes special estate and gift tax rules. Under present law, unless the individual is a U.S. citizen or resident to convert his or her U.S. tax liability to the alternative tax regime, the U.S. citizen or resident to convert his or her U.S. tax liability to the alternative tax regime, the U.S. citizen or resident to convert his or her U.S. tax liability to the alternative tax regime.

**PRESENT LAW**

The provision is effective for years beginning on or after the date of enactment.

**CONGRESSIONAL RECORD**

**EFFECTIVE DATE**

The provision is effective for any risk reinsured April 2, 2002.

**PRESENT LAW**

The bill extends the statutory authorization for these fees, is effective for requests made after the date of enactment.

**EXPLANATION OF PROVISION**

The bill extends the statutory authorization for these fees, is effective for requests made after the date of enactment.

**EFFECTIVE DATE**

The provision is effective for any risk reinsured April 2, 2002.
required to determine the subjective intent of taxpayers who relinquish citizenship or terminate residency. The present-law presumption of a tax avoidance purpose in cases in which non-U.S. income tax liability and net worth thresholds are exceeded mitigates this problem to some extent. However, the present-law rules still require the IRS to make a subjective determination of intent in cases involving taxpayers who fall below these thresholds, as well for certain taxpayers who exceed these thresholds but are not required to seek a ruling from the IRS to the effect that they did not have a principal purpose of tax avoidance. The Committee believes that the replacement of the subjective determination of tax avoidance as a principal purpose for citizenship relinquishment or residency termination with objective rules will result in easier administration of the tax regime for individuals who relinquish their citizenship or terminate residency.

Similarly, present-law information-reporting and return-filing provisions do not provide the IRS with the information necessary to administer the alternative tax regime. Although individuals are required to file tax information returns upon the relinquishment of their citizenship or termination of their residency, difficulties have been encountered in enforcing this requirement. The Committee believes that the tax benefits of citizenship relinquishment or residency termination should be denied an individual until he or she provides the information necessary for the IRS to enforce the alternative tax regime. The Committee also believes an annual report requirement and a penalty for the failure to comply with such requirement are needed to provide the IRS with sufficient information to monitor the compliance of former U.S. citizens and long-term residents. Individuals who relinquish citizenship or terminate residency for tax reasons often do not want to fully sever their ties with the United States; they hope to retain some of the benefits of citizenship or residency without being subject to the U.S. tax system as a U.S. citizen or resident. These individuals generally may continue to spend significant amounts of time in the United States following citizenship relinquishment or residency termination—approximately four months every year—without being treated as a U.S. citizen or resident under the alternative tax regime. Under the present-law regime, the individual remains subject to the alternative tax regime and who return to the United States for extended periods; (4) imposition of U.S. gift tax on gifts of stock of certain closely-held foreign corporations that hold U.S.-situated property; and (5) an annual return-filing requirement for individuals subject to the alternative tax regime, for each of the 10 years following citizenship relinquishment or residency termination.

Objective rules for the alternative tax regime

The provision replaces the subjective determination of tax avoidance as a principal purpose for citizenship relinquishment or residency termination under present law with objective rules. Under the provision, a former citizen or former long-term resident would be subject to the alternative tax regime for a 10-year period following citizenship relinquishment or residency termination, unless the former citizen or former long-term resident: (1) establishes that his or her average annual net income tax liability for the five preceding years does not exceed $122,000 (adjusted for inflation) and his or her net worth does not exceed $2 million, or alternatively satisfies limited, objective exceptions for dual citizens and minors who have no substantial contact with the United States and meet certain other criteria; (2) certifies under penalty of perjury that he or she has complied with all U.S. Federal tax obligations for the preceding five years and provides such evidence of compliance as the Secretary of the Treasury may require; (3) if a former citizen exceeds the monetary thresholds, that person is excluded from the alternative tax regime if he or she falls within the objective rules for the five preceding years; (4) if the former long-term resident also is required to gift under the alternative tax regime if he or she falls within the objective rules for the five preceding years; (5) if the former long-term resident is subject to gift tax under this provision, if the gift is made within the 10-year period after citizenship relinquishment or residency termination. The gift tax rules apply if: (1) the former citizen or former long-term resident, before making the gift, directly or indirectly owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of the foreign corporation; and (2) directly or indirectly, is considered to own more than 50 percent of (a) the total combined voting power of all classes of stock entitled to vote in the foreign corporation, or (b) the total value of the stock of such corporation. If this stock ownership test is met, taxable gifts or transfers are subject to gift tax under this provision, if the gift is made within the 10-year period after citizenship relinquishment or residency termination. The gift tax provisions generally include that proportion of the fair market value of the foreign stock transferred by the individual, at the time of the gift, which is attributable to stock owned by such foreign corporation and situated in the United States (at the time of gift) bears to the total fair market value of all stock owned by such foreign corporation (at the time of gift).

This gift tax rule applies to a former citizen or former long-term resident who is subject to the alternative tax regime who return to the United States for extended periods in which an individual is no longer a U.S. citizen or long-term resident for U.S. Federal tax purposes; (3) the imposition of U.S. Federal gift tax on transfers of stock of certain closely-held foreign corporations that hold U.S.-situated property; and (4) an annual return-filing requirement for each year following citizenship relinquishment or residency termination if such individual is present in the United States for more than 30 days in the calendar year in which such tax year is. Such individual is treated as a U.S. citizen or resident for such taxable year. Similarly, if an individual subject to the alternative tax regime is present in the United States for more than 30 days in any calendar year ending during the 10-year period following citizenship relinquishment or residency termination, the individual is subject to U.S. Federal tax on any transfer of his or her worldwide assets by gift during that taxable year. For purposes of these provisions, an individual is treated as present in the United States on any day if such individual is physically present in the United States during any part of that day, with no exceptions. The present-law exceptions from being treated as present in the United States for residency purposes do not apply to the alternative tax regime. Sanction for individuals subject to the alternative tax regime who return to the United States for extended periods

The alternative tax regime does not apply to any individual for any taxable year during which such individual is present in the United States for more than 30 days in the calendar year in which such tax year is. Such individual is treated as a U.S. citizen or resident for such taxable year.
July 31, 2003

CONGRESSIONAL RECORD — SENATE

S10567

of the individual, the individual’s country of residency, the number of days the individual was present in the United States for the year, and detailed information about the individual’s income sources that are subject to the alternative tax regime. This requirement includes information relating to foreign stock potentially subject to the special estate tax rule of section 2107(b) and the gift tax rules of this provision.

If the individual fails to file the statement in a timely manner or fails correctly to include the required information, the individual is required to pay a penalty of $5,000. The $5,000 penalty does not apply if it is shown that the failure is due to reasonable cause and not to willful neglect.

EFFECTIVE DATE

The provisions apply to individuals who relinquish citizenship or terminate long-term residency after February 27, 2003.

II. BUDGET ESTIMATES OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the Energy Tax Incentives Act of 2003 as reported.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue provisions of the bill as reported involve no new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the revenue provisions of the bill as reported involve increased tax expenditures (see revenue table in Part III, A., above).

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 402 of the Budget Act, the Committee advises that the Congressional Budget Office submitted the following statement on this bill:

III. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of Rule XXVI of the standing rules of the Senate, the following statements are made concerning the roll call votes in the Committee’s consideration of the “Energy Tax Incentives Act of 2003.”

Motion to report the Bill

An original bill, the “Energy Tax Incentives Act of 2003,” was ordered favorably reported, by a record vote on April 2, 2003.

Yeas—Senators Grassley, Hatch, Lott, Snowe, Thomas, Santorum (proxy), Frist (proxy), Smith, Bingaman, Kerry (proxy), Lincoln.

Nays—Senators Baucus, Rockefeller, Breaux, Conrad (proxy), J. Effords (proxy), Bingaman, Kerry (proxy), Lincoln.

The Committee rejected a motion by Senator Baucus, Rockefeller, Breaux, Conrad, Breaux, Breaux, J. Effords, Bingaman, Kerry, and Lincoln regarding tax shelter transparency and enforcement, by record vote.

Yeas—Baucus, Rockefeller, Breaux, Conrad (proxy), J. Effords, Bingaman, Kerry (proxy), Lincoln.

Nays—Senators Grassley, Hatch, Nickles, Lott, Snowe, Kyi, Thomas, Santorum, Frist (proxy), Smith, Bingaman, Kerry (proxy), Lincoln.

The Committee rejected a modified amendment by Senator J. Effords, regarding the motor fuel excise tax on diesel fuel used by railroads, by record vote.

Yeas—Baucus, Rockefeller (proxy), J. Effords, Kerry (proxy).

Nays—Grassley, Hatch (proxy), Nickles, Lott, Snowe, Kyi, Thomas, Santorum (proxy), Frist (proxy), Smith, Breaux, Conrad, Bingaman, Lincoln.

The Committee accepted an amendment by Senator Lott regarding the immediate repeal of 43.5 cents on diesel used by railroads, by voice vote.

The Committee accepted an amendment by Senator Nickles to strike section 29 of the Chairman’s mark, by roll call vote.

Yeas—Senators Nickles, Lott, Kyi, Bunning.

Nays—Senators Grassley, Hatch (proxy), Snowe, Thomas, Santorum (proxy), Frist (proxy), Smith, Breaux (proxy), Breaux, Conrad (proxy), Graham (proxy), J. Effords (proxy), Bingaman (proxy), Kerry (proxy), Lincoln.

The Committee rejected a modification by Senator Nickles to modify section 29 of the Internal Revenue Code with respect to the definition of a landfill gas facility and to modify sections 14, 18, and 23 of the Internal Revenue Code for the production of electricity to include electricity produced from facilities that burn municipal solid waste. The amendment was modified to include the President’s Budget Proposal of definition change for landfill gas placed in service date and to amend the extension of Internal Revenue Service user fees.

IV. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of Rule XXVI of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

Impact on individuals and businesses

With respect to individuals and businesses, the bill modifies the rules relating to (1) tax benefits for alternative fuels; (2) coal production; (3) oil and gas production; (4) energy conservation; and (5) electric industry participants involved in industry restructuring activities. Taxpayers may elect whether to avail themselves of the provisions of the bill. Thus, the provisions do not impose increased regulatory burdens on individuals or businesses. Certain provisions of the bill, such as the provision relating to transfers of decommissioning funds associated with nuclear power generating facilities, simplify the present law rules and, therefore, reduce burdens on taxpayers electing to utilize the provision. Thus, the bill imposes no increased regulatory burdens on individuals and businesses. Impact on personal privacy and paperwork

The provisions of the bill do not impact personal privacy and paperwork; thus, taxpayers may elect whether to avail themselves of the provisions of the bill. Thus, the bill does not impose increased paperwork burdens on individuals. Individuals who elect to take advantage of the bill may in some cases need to keep records in order to demonstrate that they qualify for the benefits provided by the bill. In some cases the bill simplifies present law, thus reducing recordkeeping requirements.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). The Committee has determined that four of the revenue provisions of the bill impose Federal mandates on the private sector. The four provisions are (1) the provisions to curb tax shelters; (2) tax treatment of corporate inversion transactions; (3) the excise tax on stock compensation of insiders of Venezuelan corporations; and (4) the revisions to the alternative tax regime for individuals who expatriate. The Committee has determined that the remaining revenue provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

C. TAX COMPLEXITY ANALYSIS

Section 110(b) of the Revenue Service Reform and Restructuring Act of 1998 (the “IRS Reform Act”) requires the Joint Committee on Taxation (in consultation with the Joint Committee on Taxation of the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the “Code”) and has widespread applicability to individuals or small businesses.

The Joint Committee on Taxation has determined that a complexity analysis is not required under section 402(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have “widespread applicability” to individuals or small businesses.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill), as reported by the Committee.

Mr. BAUCUS. Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, last night, Senator Baucus and I, along with Chairman DOMENICI and Senator BINGAMAN introduced the Energy Tax Incentives Act of 2003 as an amendment to the underlying energy bill. We also submitted an amendment that contains technical and conforming modifications to the Finance Committee reported amendment. Those amendments are numbered 1424 and 1431 and are printed in the RECORD of Wednesday, July 30, 2003. These important tax initiatives were developed after several months of consultation between our Committee members, and voted out of the Finance Committee as a bipartisan product. In my estimation, the Energy Tax Incentives Act reflects a fair balance of the interests of our Committee members and effectively supports the development of energy production from renewable and environmentally beneficial sources.
I would like to briefly describe that amendment before I talk about the tax incentives part of the energy bill.

For years, I have worked to decrease our reliance on foreign sources of energy and accelerate and diversify domestic production. I believe the public policy ought to promote renewable domestic production that uses renewable energy and fosters economic development.

Specifically, the development of alternative energy sources should alleviate domestic energy shortages and insulate the United States from the Middle East dominated oil supply. In addition, the development of renewable energy resources conserves existing natural resources and protects the environment. Finally, alternative energy development provides economic benefits to farmers, ranchers and forest land owners, such as those in Iowa who have launched efforts to diversify the state’s economy and to find creative ways to put their natural resources to use.

I have been a constant advocate of alternative energy sources. Since the inception almost ten years ago of the wind energy tax credit, nearly 4,300 megawatts of generating capacity have been installed across the country. Forty percent of that capacity was added during 2001, a year in which wind energy installations increased 300% over the prior year—the most new wind capacity ever installed in the United States. Wind farms installed last year produced enough electricity to power almost half a million average American households per year, demonstrating the significant capacity of wind. In addition, wind represents an affordable and inexhaustible source of domestically produced energy. Extending the wind energy tax credit until 2007 would support the tremendous continued development of this clean, renewable energy source.

The Finance Committee’s amendment supports a maturing green energy source. Experts have established wind energy’s valuable contributions to maintaining cleaner air and a cleaner environment. Every 10,000 megawatts of wind energy produced in the United States can reduce carbon monoxide emissions by 33 million metric tons by replacing the combustion of fossil fuels.

In addition, this proposal helps to empower our rural communities to reap continued economic benefits. The installation of wind turbines has a stimulative economic effect because it requires significant capital investment which results in the creation of jobs and the injection of capital into often rural economic areas. The wind industry now estimates that nearly $2 billion in employment and economic development will be added this year alone in the presence of the prompt extension of the credit through January 1, 2007.

In addition, for each wind turbine, a farmer or rancher can receive more than $2,000 per year for 20 years in direct lease payments. Iowa’s major wind farms currently produce more than $640,000 per year to land owners, and the development of 1,000 megawatts of capacity in California, for example, would result in annual payments of approximately $2 million to farm and forest landowners in that state.

As many of my colleagues know, I authored the section 45 tax credit included in the Energy Policy Act of 1992 which provided a tax credit for the production of energy from closed loop biomass.

This term refers to biomass produced specifically for energy production. An example is switchgrass grown in my home state of Iowa. To sustain many of the benefits derived from the production of this source of renewable biomass, we extend the existing credit and expand the provision to additional new sources of biomass energy production.

Environmentally-friendly biomass energy production is a proven, effective technology that generates numerous waste management public benefits across the country.

Moreover, the amendment expands the biomass definition to cover open loop biomass. Open loop biomass includes organic, non-hazardous materials such as saw dust, tree trimmings, agricultural byproducts and untreated construction debris.

The development of a local industry to convert biomass to electricity has the potential to produce enormous economic benefits and electricity security for rural America.

In addition, studies show that biomass crops could produce between $2 and $5 billion in additional annual income for American farmers. As an example, over 450 tons of turkey and chicken litter are under contract to be sold for an electricity plant using poultry litter being built in Minnesota. This is a win-win, not only do the farmers not have to pay to dispose of this stuff, they get paid to sell the litter.

Finally, marginal farmland incapable of sustaining traditional yearly production is often capable of generating native grasses and organic materials that are ideal for biomass energy production. Turning tree trimmings and native grasses into energy provides an economic gain and serves an important public interest.

I am not devoid of a long history of supporting new alternative energy concepts in the production of electricity. This amendment continues and expands that commitment. As discussed previously, section 45 provides a production tax credit for electricity produced from renewable sources including wind, closed-loop biomass, and poultry waste. The amendment modifies section 45 to include electricity generated from swine and bovine waste.

This swine and bovine proposal is truly Green electricity, as it also furthers environmental objectives. Specifically, anaerobic digestion of manure improves air quality because it eliminates of as much as 90 percent of the odor from feedlots and improves soil and water quality by dramatically reducing problems with waste run-off. Maximizing farm resources in such a manner may prove essential to remain competitive in today’s livestock market. In addition, the technology used to create the electricity results in the production of a fertilizer product that is of a higher quality than unprocessed animal waste.

The Energy Tax Incentives Act is important to agriculture, rural economy and small business, it is also important for domestic supply and energy independence.

Rural America can play an important part in energy independence and domestic supply. In addition to the production of electricity, this amendment includes additional tax incentives for the production of alternative fuels from renewable resources.

A small producers credit for the production of ethanol has been included to clarify that farmers cooperatives producing ethanol will be able to pass that tax incentive through to their farmer members. And we have a new incentive for the production of biodiesel. Biodiesel is a natural substitute for diesel fuel and can be made from almost all vegetable oils and animal fats. Modern science is allowing us to slowly substitute natural renewable agricultural sources for traditional petroleum. It work well in engines and it can relieve the strain on the domestic oil production to fulfill those important needs that agricultural products cannot serve.
Let me point out that the Finance Committee amendment contains provisions that enhance the tax incentives for ethanol production. Ethanol is a clean burning fuel that will continue to be a key element in our transportation fuels policy. We reshaped the ethanol excise tax exemption. Under the Finance Committee change, ethanol-blended fuels will make the same contribution to the highway trust fund as regular gasoline while also retaining an important incentive to promote the use of ethanol.

It makes common sense for ethanol taxes to contribute just as much to building highways as traditional gasoline. It’s logical for a smaller portion of ethanol taxes to contribute to highways as the taxes from traditional gasoline. All types of vehicle fuel taxes should contribute equally to highway construction and maintenance.

Our highway needs are great. Our dependence on imported fuel should decrease. This restructuring of ethanol excise taxes contributes to both of those priorities. At the same time, it preserves all incentives to use the clean-burning, renewable, domestically produced ethanol, the fuel of the future.

Renewable fuels like ethanol and biodiesel will improve air quality, strengthen national security, reduce the trade deficit, decrease dependence on Middle East for oil, and expand markets for agricultural products. The Energy Tax Incentives Act amendment is a balanced package. I would like to note, with some satisfaction, that today we have the opportunity to do the people’s business in the way they want us to do business. This Energy Tax Incentive amendment was crafted in a bipartisan way on an important initiative in a way that reflects the diversity of our views and the diversity of our nation. In this warm climate, this is what the people want.

I have only taken a few minutes to review a portion of the amendment. The electricity tax credits and the alternative fuel incentives in the amendment are good for agriculture, good for the environment, good for energy consumers and good for national security interests. But this entire tax incentive amendment is equally important to a sound energy policy and I hope that my colleagues will agree with me to advance these important legislative objectives.

Let me turn to the peculiar procedural situation that we find ourselves in. I want to enter conference with a clear understanding of the bipartisan intent of the Senate.

Today, the Senate will pass the text of last year’s energy bill. Read literally, the unanimous consent agreement states that the text of last year’s Finance Committee amendment, which was adopted unanimously at the time, passes the Senate.

Folks in my home state of Iowa or my friend, Senator BAUCUS’ home State of Montana, might reasonably ask a question. That question would be if you have improved the Finance Committee amendment from last year’s bill, why not last year’s tax title with this year’s tax title? That’s a good question. That was my position and that of Senator BAUCUS.

From a technical standpoint, you’d have to scratch your head, looking at effective dates for a bill that is now over a year old. There are other details in the official Senate-passed bill that are the same as the text of the House except the text has not been updated in over a year.

The answer to the question is simple. The answer is that this procedural agreement would not hold together unless last year’s bill text stayed exactly the same. That reflects the agreement of the leaders on both sides. It has nothing to do with the substance of this year’s Finance Committee amendment which is non-controversial. It has to do with the all or nothing, simple majority, binomial, procedural situation we are in. This procedural situation is going to cause.

Our majority leader, Senator FRIST, assured me that the position of the Senate Republican Caucus would be this year’s Finance Committee amendment. Everyone here knows, that in regular order, this year’s Finance Committee would have been adopted by the Senate. That is the substantive position and the intellectually honest position. I expect my House counterparts to recognize and respect that intellectually honest position. I expect my House counterparts to recognize and respect that intellectually honest position.

Before I finish I would like to comment on a few tax incentive proposals I intend to offer to the Finance Committee amendment. Because of the procedural situation we are in, these matters will not be in the Senate-passed bill. That is unfortunate, but, if we are going to get a bill out of the Senate, these proposals became casualties for the cause.

The first proposal deals with dividend allocation rules for cooperatives. This proposal would allow the payments of dividends for the stock of cooperatives without reducing patronage dividends. This measure is very important for energy production and agriculture and, I expect, would have easily cleared the Senate.

The second proposal deals with an expansion of the qualified zone academy bond program to cover certain “green” teaching facilities recognized by the Department of Energy. This is an important matter for one such facility in my home State of Iowa. Like the first proposal, I expect this provision would have easily cleared the Senate.

The third proposal deals with publicly traded partnerships. This proposal would permit mutual funds to acquire interests in publicly-traded partnerships. Publicly-traded partnerships are a key source of financing for energy production projects such as pipelines. The procedural situation we find ourselves in. Unfortunately, these important priorities will not be directly addressed in the Senate bill. I intend to raise them in conference in the spirit of this bill. If not successful, I will pursue them on future tax vehicles.

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, what is the regular order?

The PRESIDING OFFICER. There is an order to proceed to the House Energy bill and substitute last year’s Senate language.

Mr. LOTT. Mr. President, are we ready to proceed?

The PRESIDING OFFICER. The Senate is ready to proceed.

Mr. LOTT. Reluctantly and temporarily, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, I believe we are ready to proceed to the regular order.

The PRESIDING OFFICER. The clerk will report H.R. 6.

The legislative clerk read as follows:

A bill (H.R. 6) to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of the Senate amendment to H.R. 4 from the 107th Congress is inserted in lieu of the House language. The amendment (No. 1537) is printed in today’s RECORD under “Text of Amendments.”

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. CRAIG. Mr. President, have the yeas and nays been ordered?
The PRESIDING OFFICER. They have not been ordered.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY), would vote "nay."

The PRESIDING OFFICER (Mr. TALMONT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—84

NAYS—14

The bill (H. R. 6), as amended, was passed.

Mr. DASCHLE. Mr. President, I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees on the part of the Senate in a ratio of 7 to 6.

COLLOQUIY ON AMENDMENT 172

Mr. SMITH. Mr. President, today I have joined with my colleague from Alaska to sponsor an amendment to S.14, the Energy bill, which would strengthen the commitment of the United States to supply oil to Israel and other nations pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency.

The United States is currently party to two agreements to ensure that in the event Israel was unable to independently acquire its own supply of oil, the United States Government would procure the necessary oil to meet Israel’s needs.

Ms. MURKOWSKI. Mr. President, this amendment would make both agreements part of the United States law, rather than subject to continued renewal agreements. Further, the amendment also authorizes the President to export oil to, or secure oil for, Israel pursuant to these agreements, or to any country that is part of the International Emergency Oil Sharing Plan.

This language also ensures that should Congress, in the future, and the United States, be required to pay the costs of lost oil, the United States should still be able to meet its obligations to Israel.

Mr. SMITH. I believe it is important to ensure the United States can fulfill its commitment to this vital ally. I want to clarify, however, that nothing in this language would authorize the President to permit oil exploration and drilling in areas currently not legally open to development. Is that also your understanding of the language?

Ms. MURKOWSKI. That is correct. No areas where drilling is prohibited could be developed under this language.

Mr. SMITH. I thank my colleague for that clarification.

LANDFILL GAS TAX CREDITS

Mrs. LINCOLN. Mr. President, I want to congratulate Chairman GRASSLEY and Ranking Member BAUCUS on this package of energy tax incentives. But also I want to raise two concerns with the bill, which I request they address in the House-Senate conference on the energy bill.

On February 11 of this year, I introduced S. 358, the Capitalling Landfill Gas for Energy Act of 2003. My bill is cosponsored by Senators SANTORUM and HATCH and would provide a credit under either Section 29 or 45 of the Tax Code for the production of energy from landfill gas, or LFG.

In the past, Congress has recognized the importance of LFG for energy diversity and national security by providing a Section 29 credit in 1980 and extending it for nearly two decades. However, the bill before us provides no Section 45 credit for LFG, and it severely limits the Section 29 credit by applying a volume cap of 200,000 cubic feet per day. In contrast, the President proposed a Section 29 credit for LFG with no volume cap, and the House has passed a Section 45 credit for LFG.

Both of these proposals would provide meaningful tax incentives to encourage the collection and use of LFG. Thus, the Senate bill falls well short of recognizing the importance of dealing with LFG, and I urge the Chairman to address this shortfall in the House-Senate conference.

My second concern deals with a provision included in the Senate energy bill which would clarify the definition of “landfill gas facility” for purposes of Section 29. I am grateful to have worked with the chairman and ranking member of this provision, but I am concerned that we have not yet found the proper solution.

Typically, a landfill is comprised of a number of “cells.” A cell is filled with trash, closed up, and then a new cell is filled. Over time, cells within the landfill begin to generate methane gas as the garbage decomposes. So a landfill produces methane gas in stages as the individual cells produce LFG, and new “wells, pipes, and related components” are run from the landfill gas facility to collect the gas.

The Tax Code is unclear whether the new components run to cells in the landfill over time are considered part of the landfill gas facility, and thus, the question is raised whether gas from these cells are eligible for the Section 29 tax credit. Under S. 358, a landfill gas facility would include additional "wells, pipes, and related components” used to collect landfill gas. Further, the new components of the expansion would share the facility’s placed in service date for purposes of Section 29.

For example, the wells and related components added to an eligible facility placed in service in 1997 would share the eligible facility’s 1997 placed in service date and gas produced from the facility would receive the credit for the duration of the facility’s credit pay out period.

In contrast, the provision in the Senate Energy bill would include all wells, pipes, and related components added to the eligible facility, but for all expansion placed in service after date of enactment, the components would be treated as a new facility with a new placed in service date. The difference is critical since other provisions of the Senate Energy bill subject new LFG facilities to a new volume cap of 200,000 cubic feet per day. As I mentioned, this new volume cap will seriously curtail the use of Section 29 for LFG under the bill, and it was never my intention to deny payment of the full credit for gas produced from expansions of the original facility during the 10-year payout period.

The potential energy and environmental benefits of future LFG projects are substantial, but they will be lost if we do not provide adequate provisions to support project development. I request that Chairman GRASSLEY and Senator BAUCUS continue to work with me to make sure Americans garner all of these benefits.

Mr. SMITH. Mr. President, I want to assure Senator LINCOLN that I will continue to work with her to make sure adequate incentives for LFG are included in any final package from the
upcoming House-Senate conference. Her concerns are my concerns as well. She has started them well and I will devote my best efforts to resolving them as we move forward on discussions and deliberations with the House of Representatives.

Mr. NICKLES. Mr. President, I would like to ask my colleague from New Hampshire, the chairman of the Committee on Health, Education, Labor and Pensions, to share my understanding that the sense of Congress contained title 7, section 714, of the Energy bill, H.R. 6, dealing with project labor agreements, is exclusive to the natural gas transportation construction project in the State of Alaska under this title.

Mr. NICKLES. Mr. President, I would like to take this opportunity to express my support for States that provide tax incentives for ethanol or for electricity produced from clean coal technology or renewable in their State. For example, in my home State, the Ohio coal tax credit provides $3 per ton of Ohio coal used for coal technology. This tax credit encourages use of clean coal technology and holds down electricity costs in Ohio. With Ohio’s large manufacturing base, affordable energy costs keep costs down to these companies and keep jobs in the State.

I believe that States should have the opportunity to provide tax incentives for energy production and am hopeful that this is something we can address in conference on this bill.

Mr. INHOFE. I agree with my colleague. States should be able to provide incentives for energy production, much like the Federal Government does including in this bill. I believe that this issue is something that should be addressed by the conference committee on this bill.

Mr. DOMINICI. I understand the concerns raised by the Senators from Ohio and Oklahoma and would like to work with them to ensure that States maintain the right to provide these incentives.

Mr. BAUCUS. The Energy Tax Incentives Act provides an incentive for new business installations of qualified fuel cells. For those in the future who might be interested in ascertaining the intent of the authors of this provision, the Finance Committee in drafting this language did so with the knowledge that there are various types of fuel cells that convert the chemical energy in fuels, such as hydrogen or methanol, into electrical energy by means of electrochemical reactions. Rechargeable fuel cells can convert electricity into chemical energy that can be stored, and then convert that chemical energy into electrical energy when it is needed. Rechargeable fuel cells can provide the capability for storing electricity during periods of low demand and releasing it at periods of high demand. This feature can help stabilize the output from renewable resources, such as wind and solar generation, electricity generated from swine and bovine waste, geothermal power, solar power, and biomass facilities. This language is intended to encourage the production of electricity through non-point-source means in the development of alternate, renewable resources. Our policy is to help develop these and other alternative, renewable resources.

As the Chairman of the Finance Committee who has worked diligently to develop appropriate incentives for renewable resources, is it also your view that the proposed credit for qualified fuel cells should include rechargeable fuel cells, such as those that store electricity generated from these renewable resources?

Mr. GRASSLEY. As my friend from Montana pointed out, I am pleased that the tax title of the pending energy conference report includes several incentive measures that are aimed at making the energy industry more efficient and to create a more stable environment. In this regard, fuel cell power plants represent a promising means for providing electricity that is generated in environmentally friendly means and from nonconventional sources. They also provide important load-leveling capabilities that will reduce the stress and reliance on our Nation’s electricity grid. I am pleased to assure my friend from Montana that I will work to make sure that rechargeable fuel cell power plants, such as those he described, would be eligible for this tax credit.

Mr. BAUCUS. I thank my friend from Iowa for his cooperation on this issue, and I look forward to continue our efforts to enact this important energy security legislation.

Mr. REID. I want to confirm that acceptance of this still does not create any opportunity to discuss nuclear waste issues in conference.

Mr. DOMENICI. I agree with the Senator’s view. I will be a conference on this bill. I assure the Senator that I will resist any attempt to open the conference to discussion of waste issues. I would also like to note that there are provisions in this bill that will allow the national labs to play a strong role. From our positions on the Energy and Water Development Subcommittee, let’s work together to ensure their participation.

CRIMINAL LIABILITY

Mr. INHOFE. I would like to engage the Senator in a colloquy and draw the Senate’s attention to several statutes which have been, through litigation, determined beyond any reasonable belief was the intent of Congress.

Mr. DOMENICI. Is the Senator referring to the criminal negligence provision of the Clean Water Act and the strict criminal liability provision of the Migratory Bird Act and the Refuse Act which can be triggered by a simple accident?

Mr. INHOFE. Precisely. Now, I want to be clear that I do not want to suggest for a minute that we should make it easier for polluters to the environment or put the public at risk.

Mr. DOMENICI. But the situation the Senator is talking about refers to clear accidents involving ordinary people, correct?

Mr. INHOFE. Yes. Recent court decisions have made it clear that employees, at any level, who are involved in environmental accidents, can be prosecuted criminally, and potentially imprisoned. These are non-deliberate environmental accidents that do not threaten or harm others.

Mr. BREAUX. I am also concerned about criminal liability as it applies to oil spills. In fact, during the 106th Congress, I introduced legislation to address a long-standing problem which adversely affects the safe and reliable maritime transport of oil products. The legislation was aimed at eliminating the application and use of strict criminal liability statutes, statutes that do not require a showing of criminal intent or even the slightest degree of negligence, for maritime transportation-related oil spill incidents.

As stated in the Coast Guard’s environmental enforcement directive of 1997, a company, its officers, employees, and mariners, in the event of an oil spill “could be convicted and sentenced to a criminal fine even where [they] took all reasonable precautions to avoid the discharge.” Accordingly, responsible operators of the State of Louisiana and elsewhere in the United States who transport oil are unavoidably exposed to potentially immeasurable criminal fines and, in the worst case scenario, jail time. Not only is this situation unfairly targeting an industry that plays an extremely important role in our national economy, but it also works contrary to the public welfare.

To preserve the environment, safeguard the public, and promote the safe transportation of oil, we need to eliminate inappropriate criminal liability that otherwise undermines spill prevention and response activities.
pledge my support to work with my colleagues to address these environmental liability issues.

Mr. INHOFE. The American Waterways Operators have devoted a great deal of time to training mariners and vessel crews. Clearly, the Coast Guard goes to great lengths to ensure its officers and staff are well trained. However, unfortunately, accidents—true accidents—happen.

Mr. DOMENICI. My colleagues are clearly describing a legal minefield where employees involved in an accident become less likely to cooperate with accident investigations because they are being advised by counsel not to potentially incriminate themselves.

Mr. INHOFE. That is absolutely correct.

Mr. DOMENICI. And as chairman of the Environment and Public Works Committee, is it the Senator from Oklahoma’s position that this leads to less environmental safety instead of more?

Mr. INHOFE. Indeed. I also wish to draw the Senator’s attention to the Clean Air Act, which has a different, and I suggest, more appropriate provision of environmental damage, or for fraudulent efforts to conceal such damage—a provision we would not change.

Mr. DOMENICI. I agree with the Senators’ assessment, share their concern, and look forward to working with them to address this important issue.

Mr. DASCHLE. Mr. President, Senator CANTWELL has a market manipulation amendment that she was seeking a vote on. It is my understanding that the agriculture appropriations bill or the energy water appropriations bill is where she would like to offer her amendment. I would inquire of the majority leader that should she offer her amendment to either of those bills would she be assured of a vote on, or in relation to, her amendment with no second degree amendments prior to such vote?

Mr. FRIST. The Democratic leader is correct if Senator FEINSTEIN offers her amendment to that bill she will get a vote on or in relation to it. Mr. President, energy policy is an important issue for America and one which my Wisconsin constituents take very seriously. The bill before us seeks to address important issues, such as the role of domestic production of energy resources versus foreign imports, the tradeoffs between the need for energy and the need to protect the quality of our environment, and the need for additional domestic efforts to support improvements in our energy efficiency, and the wisest use of our energy resources. Given the importance of energy policy, an Energy bill is a very serious matter and I do not take a decision to oppose such a bill lightly. In my view, this bill does not achieve the correct balance on which I will vote, and which I will oppose. In addition, I am deeply troubled by the process that has led us to abandon efforts to develop meaningful energy legislation, and instead simply stop our work, take up last year’s bill, and vote on it.

In my work on this legislation, I have heard from large numbers of my constituents. Of the many pieces of correspondence I received on the matter of market manipulation, my constituents offered a detailed paper prepared by a group of students at Marquette University. The students wrote, as part of their interdisciplinary minor in environmental ethics, a comprehensive analysis and a series of recommendations regarding energy usage and efficiency. I commend and compliment these students on their hard work, and I am very pleased to see young people becoming so involved in our political process.

In conducting their analysis and crafting these recommendations, the students underscored that it is imperative that our focus in developing energy policy remains resolutely long term. I share this belief, and I agree with the students’ assessment that sensitivity is required in working to craft an energy policy because of its effect on consumers, our society, and on the environment. During my time in the Senate I have consistently worked to ensure that energy policy is both environmentally and fiscally responsible. Unfortunately, I cannot assure these students, or any of my other constituents, that this bill meets those goals.

This bill now contains a renewable portfolio standard requiring electric utilities to generate or purchase 10 percent of the electricity they sell from renewable sources by 2020. I supported an amendment offered by the Senator from Vermont, Mr. JEFFORDS, last year to increase this percentage to 20 percent, but it was watered down to 8 percent in this bill. I am concerned that if this bill makes this target actually a target of 4.5 percent of new generation from renewable sources by 2010. We can and should do better on renewable energy sources. This bill should have set a serious target, and we should have had a floor debate on this issue.

In addition, this bill repeals the pro-consumer Public Utility Holding Company Act, the Federal Government’s most important mechanism to protect electricity consumers. The Senate failed to adopt my amendment to protect electricity consumers, investors, employees, and small businesses from abusive transactions between utilities and affiliate companies within the same corporate family. It also failed to pass a proposal by my colleague from Washington, Ms. CANTWELL, banning Enron-like trading schemes. The bill should have given the Federal Government more oversight of utility mergers and tried to prevent utilities from passing on the costs of bad investments to consumers and from using affiliate companies to out-compete small businesses. Also, the electricity provisions of the bill do not provide additional oversight of energy markets. This would have been addressed by an amendment by the Senator from California, Mrs. FEINSTEIN, that passed and supported, that would have fostered a more stable market with transparent transactions and helped to prevent another Enron.

Finally, I am also concerned that we included $34 billion in tax breaks without paying for them on this bill. Our budget position has deteriorated significantly over the last year, in large part because of the massive tax cut that was enacted. We now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to some sense of fiscal responsibility, and first and foremost that means making sure the bills we pass are offset. Without offsetting the costs of this tax cut, we will be digging our deficit hole even deeper and adding to the massive debt already facing our children and grandchildren.

The American people deserve better than this bill, and I am very much in favor of it. This measure will need to be greatly improved in conference to get my vote.

Mr. COCHRAN. Mr. President, I am concerned about the recent efforts by the Federal Electric Regulatory Commission, commonly known as FERC, to make RTOs mandatory. Recently, FERC released a white paper describing their intentions to mandate Regional Transmission Organization participation by utility companies. A Regional Transmission Organization, or RTO, would act as a third party which sets the rules for power companies about pricing and delivering power. If a given state or region’s RTOs are being formed around the country, there may eventually be one in the South. But, that should not give FERC the authority to strip State Public Utility Commissions of their right to decide whether their states enter into these types of arrangements.

I understand that entering into an RTO may be a good choice for some
companies and Public Utility Commissions to make. I believe that is who should be deciding these issues—not the FERC.

I have a letter from the Mississippi Public Service Commission which I would like to submit for the Record. It clearly states the problems which would beset my state if it were forced into an RTO.

Currently, the FERC is attempting to force utilities to enter into RTOs. There was a federal court case in Atlantic City about this. Some groups point to that case and say that since the utility won its right to withdraw from the RTO, that every other utility can simply file a suit if they are mandated into an RTO. This is not a sensible way to make policy.

We should not equate the right to file a lawsuit with the voluntary ability to join one of these organizations.

I am pleased that an agreement has been reached to amend the Federal Power Act, not just this Energy Bill, to make it clear that FERC cannot mandate participation in an RTO. Unfortunately, this language expires on December 31, 2006. While I wish that there was more expirations to this provision, I am glad that the bill includes language to clarify that when this provision expires the FERC does not have authority to mandate participation into RTOs.

I am hopeful that the FERC will follow Congressional intent and allow states and utilities to decide when and if they wish to enter into an RTO. I thank Senator DOMENICI and his staff for their work on this provision and I am glad to have a commitment that this provision will be included in the final bill during the energy bill conference.

There being no objection, the letter was ordered to be printed in the Record as follows:


Senator Thad Cochran, Washington, DC

As a Mississippi State Utility Regulator, I appreciate the opportunity to submit for the record my comments and observations pertaining to the Federal Energy Regulatory Commission (FERC) and its efforts to restructure the electrical industry. Federalizing the delivery of electricity for Mississippi consumers would have a negative impact on our state.

In April of this year, the FERC released its white paper on Wholesale Power Markets and Standard Market Design. They continue to insist that Regional Transmission Organizations (RTOs) will not be mandated by FERC. However, without legislation, FERC will exert jurisdiction over retail service. If FERC has the authority to exercise jurisdiction over the Terms and Conditions of bundled retail service, this clearly suggests they will have a direct influence in the rates for such service. Bundled retail transactions are subject to State jurisdiction and the Terms and Conditions should not come under Federal control.

I personally question the legal authority, based on existing law, which would allow FERC to mandate Mississippi public utilities to join an RTO and ISO. To do so would require our electrical utility companies to turn over their transmission assets to third parties. Even though our transmission facilities were built to serve local retail customers and paid for in their rates, FERC now claims everyone is entitled to the same jurisdiction and that Terms and Conditions of the RTO will be handed down to all users. If utilities are required to take service under the Terms and Conditions of a wholesale tariff, it is difficult to see how the transmission that is required to sustain retail rates will not become FERC jurisdictional.

In May of 2000, we issued formal document to the Legislators after three years of Public Service Commission hearings on access transmission, in which we clearly indicated that restructuring the electrical industry in our state would not benefit all Mississippi consumers. The principle impact of wholesale competition in our state is in providing an additional option for meeting incremental generation needs via competitive procurement under long-term contracts and through short-term economic and reliability purchases. We do not depend on the wholesale market to the same extent, or in the same manner, as is the case withstats that have chosen a different regulatory scheme.

Our electric supplies are among the least costly and most reliable in the nation. We have sufficient generation, for the foreseeable future, and are aware of no major transmission bottlenecks that are resulting in excessive costs for our consumers. We have an electric system that is serving the consumers of Mississippi in helping our state meet its economic development potential, rather than hampering it. Allowing FERC to mandate RTO’s and exert their jurisdiction over retail transmission is not only not necessary but will be financially harmful to our citizens.

Senator Cochran, I appreciate this opportunity to provide you and the Senate with my comments on this critical issue and I strongly urge the Senate to preserve our authority to manage and regulate our electrical industry in Mississippi.

Sincerely, Nielsen Cochran, Commissioner.

Mr. LEAHY. Mr. President, while I recognize the Nation needs a sound and balanced national energy plan emphasizing clean, sustainable, and affordable energy policy, unfortunately this bill fails to do that. In my home State of Vermont we are proud of an environmental ethic that supports the increased use of clean and sustainable energy. Vermonters have a long history of taking good care of our natural resources, which has served our economy and ecosystems well. It is important to strike a balance when working to resolve environmental and energy problems. That is why I will continue to strongly support programs such as Low-Income Home Energy Assistance Program.

While the Senate has been debating the energy bill on-and-off for the past few months, the debate has been fairly limited compared with the debate on the energy bill during the 107th Congress. During the 107th Congress, when the Democrats were in the majority, we debated the bill for 24 days over an 11-week span. During the last 11-week span, the Senate adopted 126 amendments and rejected 18 others. At no time during the consideration of that bill, did the Senate try to limit debate by entering into a unanimous consent agreement to limit amendments. In comparison, we have had very limited debate on this bill and avoided critical issues.

Many of my colleagues offered common sense amendments that would have greatly improved the bill. This includes conservation measures offered by Senate DURBIN that would have required cars, SUVs, minivans and crossovers to achieve a new corporate average fuel economy level of 30 mpg and would require pickup trucks and vans to achieve a CAFE standard of 27.5 mpg by 2015. Senators CANTWELL and BINGHAM offered several amendments to the electricity title to improve consumer protections. Senators SCHUMER and COCHRAN offered amendments to reduce the impact of ethanol mandates on consumers in the Northeast. I am disappointed that all of these amendments failed.

They should be noted this bill is fiscally irresponsible. Senators WYDEN and SUNUNU proposed an amendment that would have stricken from the energy bill a provision to make available Federal subsidies for nonnuclear power plants. This amendment was not against nuclear power but an amendment for Congress to be fiscally responsible to the American taxpayer. Unfortunately, this amendment failed earlier in the summer. Now the American public will have to subsidize an estimated $14-$16 billion for a source of energy that leaves many citizens concerned over their safety. Lastly, many other amendments that attempted to hold the administration accountable to environmental laws were rejected by my colleagues that will result in further degradation to the American public’s natural resources.

If these amendments had passed, they would have reduced our dependence on foreign oil imports, maintain air quality protections, and conserve energy. Instead this bill forces the American people to pay for the construction of new nuclear power plants and increased oil and gas drilling. The Senate had a real opportunity to put together a sensible energy policy that shifted the focus from nuclear power and offshore drilling to a clean, renewable, and affordable energy plan. Unfortunately, we failed to do this, and that is why I cannot support S. 14.

Ms. MURKOWSKI. Mr. President, I come to the floor at this late hour to express my strong support for Senate passage of a comprehensive energy bill.

This bill is an important first step in increasing the energy security of the United States. It has been a long time in coming, but we welcome this action by the Senate tonight.

For the jawbreakers come some of the sweetest victories, and I want to commend our leadership for getting this done, really to the surprise of many pundits and experts around DC who said it could not get done this year. Much less by the end of this year. We should also acknowledge the willingness of the other side to reach accommodation on this important bill.
Every where I go people talk to me about natural gas—back home in Alaska, in Seattle, or here in Washington, DC. Everyone, from the President of the United States to Federal Reserve Chairman Alan Greenspan to the farmers of Iowa, know that we face serious problems in the near future.

With passage of this bill the Senate is telling consumers, farmers and natural gas dependent industries that help is on the way. That is good for American workers, good for our families and their pocket books and good for the economy. The provisions contained in this bill will truly help us get the all important Alaska natural gas pipeline moving forward.

Experts predict that the U.S. will face a 20 billion cubic foot per day shortage of gas by the year 2020. In Alaska we have 35 trillion cubic feet of gas in Prudhoe Bay that has already been found, and we expect more than 100 trillion additional cubic feet to be found with the North Slope做梦 with rel- atively little effort. Alaska’s natural gas can help close more than 25 percent of the expected 2020 gap, but we need to assure the markets that some of the risk associated with this project can be mitigated. We can get it built. It will be one of the largest privately financed projects in the history of the planet. It will employ over 400,000 people nationwide, with thousands of new jobs being created in my State of Alaska. Nationally the creation of 400,000 new jobs could reduce our unemployment rate by a whopping ½ of a percentage point. That is a huge shift from just one project. And it will mean a stable supply of gas for America for years to come. No other project I know can have that kind of positive impact on America—from either a gas supply, energy security or job creation perspective. It is imperative that we get this project moving now.

I want to assure Alaskans that I will work to include in the conference report on this bill the provisions I se- cured during this year’s debate in the Energy Committee. With those changes this bill will help us to address our energy problems even more.

I thank the fine Chairman of the Energy Committee for his effort and leadership, and I applaud the work of both Leaders to get this bill done before the August recess.

The PRESIDING OFFICER, the Sen- ator from Connecticut is recognized.
against a free-trade agreement. I have been a strong supporter of free trade, but I must caution my colleagues about what is in these two agreements that were never a part, as I understood it, of the trade laws but rather an imposition of provisions which I think go far beyond what many of us intended to be the case.

My concern is, despite some very good provisions in both the Chile and Singapore agreements, we are breaking new ground which I think we will come to regret with some 30 other bilateral free-trade agreements pending before this body that will be voted up or down without any amendments being offered which is a result of the fast-track authority which this body endorsed only a number of months ago.

This is but one more example of the troubling pattern of insensitivity to the concerns of American workers that our trade representatives not negotiate away their jobs in the name of free trade. Nor have I ever been so strongly a supporter of free-trade agreements and understand it was an expression of deep concerns that poorly crafted free-trade agreements will undermine our economy and the prosperity of working America.

I was amazed that the concerns expressed by the American workers during the debate of the permanent trade authority legislation had been so quickly confirmed with respect to the first two agreements that this administration had sent to Congress since the FTA became law. There are likely to be as many as 30 free-trade agreements negotiated utilizing this extraordinary authority.

I have been a strong proponent of entering a bilateral trade agreement with Chile for many years. I am extremely disappointed that provisions that should not be in this agreement have been included. In all the years the proposal for a free-trade agreement with Chile was debated, there was never, ever—never—any mention of nonimmigrant visa provisions being included as part of a final agreement.

I recognize there are many features of the Chile and Singapore agreements that will promote a freer flow of goods and services between the United States and Chile and Singapore. The agreements include comprehensive commitments by Chile and Singapore to open their agricultural, service, and overall markets to the United States. That is great news, indeed.

Were those the only provisions we were considering today, I would, with enthusiasm, endorse and support these two agreements. But there are other provisions in these agreements that my colleagues ought to pay attention to, which have gotten very little attention at all. It is those provisions I am concerned about because they are steps in the wrong direction with respect to protecting American jobs in my State and elsewhere across this country.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

One year ago, the Senate voted to give the President trade promotion authority allowing him to negotiate additional trade agreements and limiting the Congress to an up-or-down vote on each trade agreement without the ability to amend them.

Breaking with my normal practice with respect to such legislation, I decided to oppose final passage of that bill. I did so because I did not think the legislation included adequate language making it crystal clear that a primary negotiating objective of future trade agreements must be to ensure that as a negotiating objective of future trade agreements, an obligation to uphold standard labor practices and policies of our trading partners in the context of including provisions to open foreign markets to the United States. That is great news, indeed.

Were those the only provisions we were considering today, I would, with enthusiasm, endorse and support these two agreements. But there are other provisions in these agreements that my colleagues ought to pay attention to, which have gotten very little attention at all. It is those provisions I am concerned about because they are steps in the wrong direction with respect to protecting American jobs in my State and elsewhere across this country.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.

I would predict there are Members of this body who are unaware that these agreements will allow as many as 1,500 nonimmigrant visa holders from Chile and Singapore to be hired each year by U.S. employers, without those employers first having made a good-faith effort to fill the vacancies with American workers. These agreements will make it easy for U.S. employers to employ temporary workers from those two countries with little or no oversight by the Department of Labor. Moreover, once enacted into law, these provisions will have the effect of undermining the intent of our nonimmigrant visa programs, namely, the ability of American workers to remain internationally competitive.
work. But as a Member of this body, I cannot support a bill that disregards the needs of American workers, allows immigrant legislation, migration legislation to be included so blatantly in a free-trade agreement, as we try to secure decent-paying jobs and keep our unemployment rates down, and offer American workers an opportunity.

It is hard enough to convince them that free-trade agreements are in the best interest of the American economy and for the creation of jobs, but when you speak about free-trade agreements, more than 8,000 jobs in this country, without ever having to face anything at all, that is wrong.

If we do not speak up tonight about it, believe me, as I stand here before you, you are going to see these provisions included in all of the remaining bilateral agreements, and that would be a mistake, in my view.

In a perfect world, I would hope these agreements could be withdrawn and re-submitted to the Senate without the inclusion of these immigration provisions. However, that is unlikely to happen, obviously. For that reason, I am left with no choice but to cast my vote, obviously. For that reason, I am now in agreement that free-trade agreements are in the best interest of the American economy, and that those that remain, and that is eight agreements included in all of the remaining 30 bilateral agreements, and that would be a mistake, in my view.

The agreement with Singapore, our twelfth largest trading partner, is the first such FTA with an Asian nation. Singapore is a long-standing ally in the war against terrorism. Currently, for instance, Singapore is building an aircraft carrier pier at its port, the largest in the world, specifically for U.S. vessels.

Under this agreement, Singapore will eliminate duties on all U.S. products and broadly open its service sector across a wide range of industries. These and other commitments, such as strong protection of intellectual property rights, will benefit American investors and consumers.

With regard to Chile, I am pleased that after years of much anticipation this agreement is finally complete. Chile has stood out as one of South America’s economic leaders for some time, and this agreement will serve to solidify our support for its continued progress. Today, Chile has free trade arrangements with Canada, Mexico, and the European Union. This United States-Chile Free Trade Agreement will provide an opportunity for American exporters. This is very important for wheat growers who have lost substantial market share as a result of the Chile-Canada trade agreement. Therefore, I believe that on balance the benefits of this agreement are in the best interest of the American economy and for the creation of jobs, and for the best interest of the American economy, and for the creation of jobs, and for the best interest of the American economy, and for the creation of jobs, and for the best interest of the American economy, and for the creation of jobs.

I support the agreements before the Senate today and will vote for their passage. I do want to take this opportunity, however, to raise my strong concern over rules of origin and the condition that they sell only imported products.

I support the agreements before the Senate today and will vote for their passage. I do want to take this opportunity, however, to raise my strong concern over rules of origin and the condition that they sell only imported products.
and beef. At a minimum, the “born in country” standard should be adhered to. Although I would certainly prefer that we work with our trading partners to obtain a “born, raised, and slaughtered” standard for designating the country of origin of beef. This latter definition, however, reflects the current country of origin law in place in the United States. This tighter standard is advocated by the major farm organizations in our country in addition to cattle ranchers and consumer groups who all believe in stronger definitions.

Last year, we put top priority on helping those Americans who are on the losing side of trade. The administration made an agreement with us, but to date the administration has not honored that agreement. TAA for Farmers was supposed to be operational 6 months ago, yet has still not gotten off the ground. The Health Tax Credit was to be made available and advantageous this month, yet only 22 States have taken the agreement and are moving forward with these steps. More importantly, a number of technical corrections to the program have been stalled in Congress and the administration has not helped advance them. These technical corrections are essential in making sure that the targeted workers, which we agreed on, receive their much-needed health benefits. The wage insurance program for older workers has remained completely dormant and the administration has taken no steps to pass this program.

Since the beginning of 2001, more than two million manufacturing jobs have been lost. I strongly urge the administration to join with us and let’s use the replacement of the FSC regime as an opportunity to promote U.S. manufacturing jobs.

We must recognize that there is no “one-size-fits-all” approach to dealing with labor and environmental standards in other countries. While I applaud the administration’s efforts in including labor and environmental agreements, they should not, I repeat, should not, be perceived as some sort of a template for future negotiations. The conditions of countries in Central America are significantly different than those in Chile or Singapore and should be treated as such.

We need to have strong enforcement of our trade laws. Currently, for example, the United States International Trade Commission is reviewing the section 201 petition filed in this Administration to impose duties on the targeted imports of steel. So far, the temporary restrictions have provided some mills the time needed to make modest steps towards recovery. Repealing these measures now, however, would greatly undercut this moderate success, and I therefore urge the President to maintain these safeguards for the full three years.

Finally, today is a good day for relations between the United States and our free trade partners in Singapore and Chile. By strengthening our economic ties, we have benefited the people of all our countries and encouraged a mutually supportive partnership that will benefit all aspects of our bilateral relationships.

Mr. MCCAIN. Mr. President, I support swift passage of the U.S.-Chile and U.S.-Singapore Free Trade Agreement Implementation Acts. S. 1416 and S. 1417, respectively. These acts represent what I hope will be a long list of trade agreement implementation bills necessary to enact trade deals negotiated and signed by the President under the authority granted him by Congress last year.

Stemming from the Trade Act of 2002, which included Trade Promotion Authority (TPA), agreements such as the two before us are helping to reestablish U.S. credibility in the area of trade. The President and his administration are now able to more freely negotiate, encouraging countries once reluctant to begin trade negotiations with the U.S. to come to the table. The U.S.-Chile Free Trade Agreement and the U.S.-Singapore Free Trade Agreement have demonstrated the United States’ commitment to free and open trade. I hope they are moving forward with new trade agreements with key partners in every region of the world.

Our staunchest allies and most important trading partners should have every reason to doubt our dedication to the free trade principles we have long advocated as a driving force of prosperity and stability. A series of short-sighted, protectionist actions in recent years has jeopardized our relationships with our most important trading partners. That makes enactment of these bilateral free trade agreements even more important.

These agreements may not have a dramatic economic impact in the United States, but they are sure to yield benefits to American consumers and businesses. Enactment of agreements such as those before us helps us regain our credibility and leadership in championing free trade principles around the world. I hope they set a precedent for more aggressive liberalization of our trade with other nations in Asia, Latin America, Africa, Europe, and the Middle East.

I commend Ambassador Zoellick for his efforts to bring these free trade agreements to fruition, as well as for his commitment to exhaustive consultations Congress. Our agreement with Chile is one more step towards realizing this grand vision. With our free trade agreement with Singapore, a key ally in the war on terror, will hopefully help propel future trade liberalization in Southeast Asia, one of the world’s most dynamic economic regions.

As it stands now, Singapore is our 12th largest trading partner, and our largest trading partner in the strategic region of Southeast Asia. This agreement would eliminate many barriers to trade, and improve market access and opportunities for U.S. goods and services. In addition, this agreement would provide regulatory reforms and transparency, two key components in establishing the strong ties and trust necessary for trade.

Implementation of the negotiated agreement with Chile would place us in a better position to negotiate with the European Union and Canada, which already enjoy their own FTAs with Chile. Despite having to play market access catch-up, our farmers and ranchers will enjoy duty-free access to Chile’s markets within 12 years; and consumers and other information technology products, medical equipment, and other goods will gain immediate duty-free access.

Throughout the negotiating process, environmental and labor matters remain considerable scrutiny. The FTAs address these concerns through provisions laid out in both agreements that call for Singapore and Chile to provide a high level of environmental protection, and require each nation to endeavor to improve upon their laws if necessary. Each nation is to reaffirm its obligations as part of the International Labor Organization and strive to make sure its laws reflect the labor principles therein.

These negotiations and the agreements that have resulted from them are a good start towards accomplishing Congress’ purpose for passing the Trade Act last year: an aggressive agenda to liberalize trade with key partners, producing comprehensive agreements which reduce barriers to trade, providing tangible benefits to American consumers and businesses, and reestablishing our credibility and leadership in championing free trade principles around the world.

I am, however, concerned that immigration provisions contained in these trade bills set a bad precedent. Although I support the spirit of these provisions, I strongly believe that changes to U.S. immigration policy should be thoroughly debated in Congress and such modifications do not belong in trade agreements negotiated between our government and other nations. I discourage their inclusion in future trade agreements.

Overall, these are fine examples of what Congress intended when we passed TPA. I hope we will soon see action on free trade agreements that are currently being negotiated with Australia, Central America, Morocco, South Africa, and others. I hope the administration will continue to push these agreements towards finalization.

Finally, I hope that the administration and Congress work together towards accomplishing significant progress in the next round of global trade talks this fall. Global trade liberalization through the World Trade Organization is the most effective and efficient way to bring down barriers to trade, the best way to open the markets of key trading partners in Europe and Asia, and to enforce
free trade principles. The conclusion of economically meaningful bilateral trade agreements, coupled with an aggressive campaign for global trade liberalization, will reestablish our credibility and leadership on free trade and open markets. And, as we have seen, America and the world will be better off as a result.

Mr. COCHRAN. Mr. President, a year ago, with the support of American agriculture, Congress approved legislation granting trade promotion authority to President George W. Bush. The President has demonstrated a strong commitment to expanding the American economy by actively engaging in an aggressive trade strategy. This strategy includes negotiations with Chile and Singapore, regional efforts with the Free Trade Area of the Americas, and the Central American Free Trade Agreement talks, and with the World Trade Organization.

Congress has had unprecedented access to representation with negotiators, resulting in agreements without hidden compromises or concessions. Public hearings in the Senate and the House have enabled agricultural groups and others who have a stake in these negotiations to make their views and interests known.

Both the Chile and Singapore agreements passed the other body last week by a substantial margin. It is now time for the Senate to approve the agreements.

The U.S.-Chile agreement provides important new opportunities for America’s farmers and ranchers. Chile is a market of more than 15 million people with an open and progressive economy. Both the European Union and Canada already have free trade agreements with Chile.

Our negotiators were successful in their efforts to eliminate duties on more than three-quarters of American agricultural goods within the first 4 years. The agreements also contain a safeguard provision which will help prevent surges in trade volumes. To discourage the use of nontariff barriers, a sanitary and phytosanitary approach will ensure thatstandards of inspection and food are based on sound science.

The U.S.-Singapore agreement has the positive effects of freer and fairer trade and they make this agreement worthy of support as well. Singapore has become our 11th largest trading partner and provides the U.S. services sector with fair and immediate increase in market access.

I urge my colleagues to vote for both the Chile and Singapore free-trade agreements.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. President, tonight the Senate passed implementing legislation for the Chile and Singapore Free Trade Agreements. These FTAs are comprehensive in nature and will serve well the interests of the United States. But they are not without flaws. I want the record to reflect my concerns and, more importantly, I want to make clear that I believe the direction the Bush administration is taking in the Free Trade Agreement negotiations on the Central American Free Trade Agreement and the Free Trade Agreement of the Americas is unacceptable.

Chile is an excellent candidate for a free trade agreement. It has one of the fastest growing economies in the world. The agreement the Senate has passed tonight should facilitate a general expansion of American exports, particularly in electronics and transportation equipment industries. This will create good work and good jobs here in America. More broadly, Chile is the first Latin American country to join in a free trade agreement with the United States, and that will allow the United States to more directly support economic and social reform in Latin America. In the past, Chile has been a major stepping stone for enhanced hemispheric trade and job growth here at home.

Singapore is also an excellent candidate. Singapore is our 12th largest export partner. The agreement provides a critical link between the United States and South East Asia and Singapore is the second largest Asian investor in the United States after Japan. Although the economic effects of the Singapore agreement are not likely to be great, this FTA would add a formal economic link to our significant security relationship with Singapore. It is an agreement that will ultimately build greater trade and create jobs here in America.

Chile and Singapore both have laudable records in financial regulation and transparency and have demonstrated a commitment to fundamental worker protections. For example, Chile has adopted several international labor conventions. In the United States, by contrast, has adopted only two. The performance of these two countries in these areas, and their status as models of reform in their respective regions, makes these trade agreements desirable. That is, not to say these nations are not without problems or that further improvement is not needed. It is to make clear that these nations have made progress, are striving to improve, and that these agreements will only help them develop and enforce more advanced policies. More importantly, these agreements will not put American workers at risk of unfair competition.

But, as I have said, there are flaws with these agreements. Over the past decade, the treatment of labor and environmental issues in trade agreements has evolved both in emphasis and enforcement. NAFTA represents an early stage in this evolution, addressing labor and environmental issues in the context of the agreement, albeit in side accords. The United States-Jordan Free Trade Agreement was the first FTA to include labor provisions in the actual text of the agreement and to subject those provisions to the same dispute settlement procedure as all other elements of the agreement.

Although the Chile and Singapore agreements should be the next step forward in this evolution towards strong and effectively enforced labor and environmental standards, they are in fact a step back. Unlike the United States-Jordan FTA, the only labor provision subject to dispute resolution in the most recent agreement related to immigration policy. The result is that America will allow the temporary entry of more than 6,000 foreign professionals for employment. This is not wise economic policy in good times and it is only worse economic policy in our current recession. Further, it amends unrelated immigration law, and I believe the Bush administration has abused fast track authority in doing so.

The final point I want to make this evening is, in my view, the most important. The Bush administration has made clear that it plans to use the Chile and Singapore FTAs as models or templates for future trade negotiations. I feel strongly that future negotiations must reflect the particular concerns and uniqueness of each trading partner. This seems obvious, but those who follow trade negotiations have warned that the Bush administration will claim that both the Chile and Singapore agreements are universally applicable and, in particular, should apply to CAFTA and FTAA. Let me be as direct as possible: If the CAFTA and FTAA agreements do not include labor and environmental protections that are far, far stronger than the Chile and Singapore agreements, I will oppose them as strenuously as I can.

The administration’s one-size-fits-all approach will not work. Many of the nations considering inclusion in CAFTA and FTAA have no or low standards to protect workers and the environment and enforcement is nonexistent in some areas. Worker and environmental protections in the group of six Central American countries participating in CAFTA are not comparable to those in Singapore and Chile, for example. Some have not even adopted labor standards that we take for granted, including bans on child and forced labor, non-discrimination and the right of workers to associate and bargain collectively. In Nicaragua and Guatemala, workers cannot strike against employers, workers have unacceptably poor working conditions, pay and benefits without government approval. And it is common for workers seeking better conditions to be physically intimidated and abused.

In CAFTA, the Bush administration is running a race to the bottom. Even basic rights, like the right to be protected from physical violence, are cast
consistent with my long held views on trade, I have made the decision to do what I can to force a change of course in the CAFTA and FTAA negotia-
tions so that the agreements enshrine, within the four cor-
ners of the agreement and with equal standing, specific labor and environ-
mental protections that are fully en-
forced. I will accept no less. For ex-
ample, fundamental labor standards like the right of association, the right to
collectively bargain, prohibitions against child and forced labor, prohibi-
tions against discrimination and other basic rights must be included. And
these provisions must be subject to the same ongoing settlement pro-
cedure as all other elements of the agreement.

I believe that trade is good for Amer-
ica, for our working families and for the international community. A race
to the bottom—trade without rules—the strategy the Bush administra-
tion is pursuing in CAFTA and FTAA is not good for America, our workers or the international community, and I will oppose it.
•

Mrs. CLINTON. Mr. President, today the Senate will vote on the Singapore and Chile free-trade agreements. Be-
cause I believe that these agreements will benefit New York and will lead to
greater economic opportunities for New York companies, I will vote in
support of these agreements.

Both the Singapore and Chile free-
trade agreements promise to offer new
opportunities for United States banks, insurance, securities and related serv-
ices. These sectors are a critical part of New York's economy. These agree-
ments also include provisions that im-
prove intellectual property protections and open the telecommunications mar-
kets in both of these nations.

I share the concerns raised by some of my colleagues regarding the immi-
gration provisions in these agreements. As my colleagues have pointed out, trade agreements are not the place to
rewrite our immigration laws. I will be
supporting Senator LEAHY's legislation to de-emphasize trade agreements that include immigration provisions. As you know, I voted
against granting Trade Promotion Au-
thority to the President and I believe the inclusion of these immigration pro-
visions provides an example of my con-
cerns about providing the President with Trade Promotion Authority. De-
spite bipartisan concerns about these provisions, Trade Promotion Authority
means that we are unable to fix it.

As for labor provisions in each agree-
ment, the Chile and Singapore free-trade agreements include obliga-
tions for each nation to enforce their
own domestic labor laws. I believe that

FTAA is not good for America, our
the sort of trade policy the Bush ad-
to the bottom
same dispute settlement procedure as
against child and forced labor, prohibi-
tions collectively bargain, prohibitions
mental protections that are fully en-
shrine, within the four cor-
tations, to ensure that those agree-
course in the CAFTA and FTAA nego-
tions for each nation to enforce their

That is a policy that exploits not only
nations, but Americans as well. It ex-
poses American workers who are
forced to compete hopelessly against
companies that abide by no rules what-
soever.

Mr. BIDEN. Mr. President, inter-
national trade has always been an im-
portant part of the American economy.
For the past half century and more, the United States has been a leader in
to expand open markets around the world to our prod-
usts. I believe that on balance the evi-
dence shows us that trade has sup-
ported economic growth here in the
United States, and that trade has sup-
ported good jobs and good wages for
American workers.

On paper, the simple, textbook logic
of trade is clear—more open markets
around the world mean more customers
for our workers and companies, who can compete with anyone in the world.
And open markets mean more choices
and lower prices for American con-
sumers—it makes their paychecks go
further.

Trade complements and reinforces
the great strength of the American econ-
y—its ability to seize opportu-
nities.

To lead the world in research, to be
the first to develop new products and
processes, we depend on our ability to
\*\*\*
that the overall result is a more efficient, more productive, even wealthier nation.

But underneath those gains are the costs of economic change, costs that are just as real and just as much a result of those benefits. The costs of coping with economic change are dumped on workers and their families, on the communities they live in. The benefits of trade often go to businesses and workers in other industries, in other parts of the country, or overseas.

If trade costs really do outweigh their costs, we should have the resources as a Nation to help those on the losing end, the ones who are paying the price so that our economy can become more productive. Recently, two important shifts have occurred in our trade negotiations. First, we are dealing with countries that more often than not lack the political rights and the legal structure to protect their workers and their environment.

Many of these countries don't have our strong tradition of organized labor, fighting and winning protections for wages and working conditions. Many of these countries don't have the organizations or the laws to protect their environment, either, as we began to grow into the world's strongest economy over a century ago.

It took us time and a lot of struggle to learn those lessons. Slowly, a majority of the countries out there who have not learned them yet, countries that do not provide those protections that can raise living standards, standards that they cannot yet afford. Low-wage competition with our workers, with our higher living standards, can force American companies to cut costs wherever they can—and in the end, that often means cutting labor. That means families without breadwinners, communities without jobs.

We have gone beyond lower tariffs, and into areas that implicate a lot more of our own domestic laws—even environmental and health regulations. This deeper integration in the international economy touches close to home in a country like ours. We want to be sure that we remain in control of those important political issues. This does not mean that we should stop trying to bring the benefits of markets and trade to American workers and consumers. But it does mean that we have to be increasingly careful with every new step we take in trade policy. The easy work is behind us.

Each step from here on has to be taken with a much closer look at the balance between risks and rewards. But these trade deals before us today do not show that kind of care. Chile and Singapore are good allies of ours, and I support more cooperation and exchange among our economies. They are not, in their living standards and level of development, all that different from us. They are not themselves the issue here, at least not for me.

But the trade agreements the Bush administration has negotiated with them are a step back from progress we have made, as recently as just a couple of years ago, in the Free Trade Agreement. For example, the Jordan agreement subjects any violation of labor protections to "appropriate and commensurate" action. And there is no cap on the penalty that could be imposed as a result of a dispute.

But the Chile agreement and the Singapore agreement provide recourse against a country only for a sustained failure to enforce its own labor and environmental laws. In the worst case, a country could choose to lower its labor or environmental standards, making it easier to avoid a dispute or a penalty, because it would make its own standards easier and cheaper to enforce. At the margin, that would put greater pressure on American firms to cut costs and to ship jobs.

In addition, in these two agreements there is a cap of $15 million a year on penalties for failure to live up to labor and environmental protections. And if the offending country begins to improve, or to commit more than $15 million worth of violations, you can do the math.

Again, Mr. President, it is not that these two nations raise a serious threat to American standards. Trade with Chile and Singapore combined amounts to a fraction of 1 percent of our economy. Nor do I harbor any concerns that these countries will fail to live up to their end of the deal. The issue before us now is whether these deals—the first agreements accomplished under fast track negotiating authority—set an acceptable pattern for future, more extensive trade agreements, such as the planned Central American Free Trade Agreement or the Free Trade for the Americas.

These trade agreements fail to treat labor and environmental issues as seriously as commercial disputes, as our trade law now requires. This is the first test of what this administration has done with its fast track trade negotiating authority. Now is the time to hold them to the letter and the spirit of the legislation under which we in Congress granted that authority to this administration. The real problem with these agreements lies in the changes in immigration law—done without the participation of the Judiciary Committee.

Fast track for the specifics of trade deals is one thing; but trade deals should not undertake, outside of the legislative process, significant changes in immigration or any other policy. Thousands of new visas can be issued under these agreements—without any commitment to save specific skill shortages here in the U.S. Those immigration provisions usurp congressional legislative powers, and undercut jobs for Americans.

I expressed concerns about the future of these negotiations when I did not support granting the President fast track negotiating authority last year. We need the strongest protection for our workers here at home, the strongest protection for environmental standards abroad. And we need to make sure that gains from more open trade are gains that all Americans share. In the last decade, up until just a few years ago, we had a growing economy, with strong job creation and wage growth.

During that period, we accomplished a number of very significant trade negotiations, including NAFTA, and China's entry into the WTO, both of which I supported. Today, things are very different.

Since January of 2001 we are down 3.1 million private sector jobs, and still counting.

A growing national economy, with strong investment in new sectors, strong employment, and growing incomes, helps to protect American families from job shifts that come from technological changes. So do strong protections for workers to organize and earn fair wages. And so do pensions that are safe, health care that is accessible and affordable. And specific protections for workers directly affected by trade. If those things are in place, the benefits of trade outweigh the costs. But right now, we can take none of those things for granted.

Under this administration, there is a concerted effort to erode pension protections, the 40-hour work week, and other core worker protections. Our economy is struggling through the worst drought in job creation since the Great Depression. To maintain our living standards, and to maintain political support for increased trade, our trade policy must be first based on strong growth and job creation at home. This administration has not demonstrated to me that they have a plan for economic growth and job creation, or a commitment to protect workers' rights.

Without that plan, without that commitment, and because of the flaws in the agreements themselves, I cannot vote for them.

For me, Mr. President, the calculation is simple. If this administration can create one new job, if it can dig us out of the hole we are in—over 3 million jobs lost—trade deals might make more sense.

I challenge this administration to create just one new job—just one more
Mr. EFFORDS. Mr. President, I rise again today to reiterate my concerns with the Singapore and Chile Free Trade Agreements. Let me first say to my colleagues that concern with these agreements is not with the trade provisions that they contain, but with the changes to our immigration laws.

A vote in favor of these agreements is a vote against our un- and under-employed workers. A vote in favor of these agreements is a vote against congressional constitutional authority over immigration.

Let me repeat for my colleagues the numerous problems with the immigration provisions in these agreements:

Creation of entirely new categories of nonimmigrant visas for free trade professionals that do not mirror the requirements of our current H-1B program;

No requirement that H-1B dependent employers make attestations that they are seeking to recruit U.S. workers, and that they are not displacing U.S. workers;

No limit to the number of times that an individual is able to renew his or her visa, enabling the non-immigrant to remain in the United States on a permanent rather than temporary basis;

Only requires that the non-immigrant have knowledge that is “specialized” as opposed to the “highly specialized” knowledge demanded by the current H-1B law;

Requires, without a numerical limit, the entry of business people under categories that parallel three other current visa categories;

Requires the entry of their spouses and children so that they can join the foreign workers in the United States making the program even less of a temporary visa;

Requires the entry of foreign workers on L-1 visas regardless of whether they are nationals of Singapore or Chile so long as the sponsoring corporation has an office in those countries;

Requires that the United States submit disputes about whether it should grant certain individuals entry to an international tribunal, not leaving that decision to the Department of Homeland Security.

Finally, and in my mind, most importantly, for all my colleagues, these changes to our immigration law are effectively beyond the reach of Congress to oversee or alter.

The Senate should be focusing today on legislation that will improve our education and job training services, not legislation that will increase the number of foreign workers in this country. We need to make a stand today for our professional workers and vote against these agreements.

Ms. SNOWE. Mr. President, I rise today in support of the pending Free Trade Agreements with Singapore and Chile. Congress has a constitutional obligation to formulate U.S. trade policy and through the oversight activity of the Finance Committee, and the active participation of the Congressional Oversight Group, this responsibility is being met.

I would like to take this opportunity to thank Chairman GRASSLEY for his leadership on the Finance Committee in ensuring that Congress is not on the sidelines in the trade debate, even under the fast-track procedures by which these agreements are negotiated and are then certainly confirmed by Congress.

It is well known that I have opposed trade agreements in the past. I did so because I never felt that those agreements struck the proper balance between free and fair trade. Last year, I supported trade promotion authority for the President precisely because it did strike the appropriate balance, and because of this administration’s commitment to aggressively enforce our trade laws so that American workers aren’t undermined by unfair trade.

The two agreements before us today have made substantial progress toward meeting those concerns and they come not a moment too soon, as the success of our economy relies more and more on fair and free trade. U.S. exports accounted for one-quarter of U.S. economic growth over the past decade—nearly one in six manufactured products coming off the assembly line goes to a foreign customer and exports support 1 of every 5 manufacturing jobs.

Given these facts, it is an understandable concern that the U.S. has been party to only three Free Trade Agreements ever, while there are more than 130 worldwide. Since 1996, the WTO has been notified of 90 such agreements while the U.S. only reached one, the Jordan Free Trade Agreement. In contrast, the European Union has been particularly aggressive in entering into free trade agreements since 1996 and they are actively negotiating another 15.

Why should these facts raise concerns? Because every agreement made without us poses a threat to American jobs. Nowhere is this better exemplified than in Chile which signed a free trade agreement with Canada, Argentina and several other nations since 1997.

Since that time, the U.S. has lost one-quarter of Chile’s import market, while nations entering into trade agreements more than captured our lost share. According to the National Association of Manufacturers, this resulted in the loss of more than $800 million in U.S. exports and 100,000 job opportunities.

In the three months since the EU-Chile agreement went into effect, the growth rate of EU exports has expanded 5.6 times as fast as U.S. exports did. This represents a disturbing deterioration of the U.S. share of Chile’s market. These numbers represent real jobs for U.S. manufacturers that need new markets for their goods to keep employees working and demonstrate the effect of the U.S. failing to move forward with the implementation of these market access agreements.

One industry especially affected was U.S. paper products, which accounted for 7.5 percent of U.S. exports to Chile but has since dropped to only 11 percent after the trade agreements were signed. The market access provisions of the U.S.-Chile FTA provide for the elimination of all tariffs on all forest products immediately upon implementation of the agreement, eliminating the 6 percent import tariff on U.S. paper and wood products.

Chilean forest products exports, in contrast, already enjoy duty-free access to the U.S. market. Immediate tariff elimination will put U.S. suppliers on equal footing with Chilean producers and with competing suppliers of forest products from Canada and Mercosur countries, and the European Union.

Before the Canadian-Chile FTA went into effect, U.S. paper and paperboard exports to Chile amounted to 156,000 metric tons, with a value of $99 million and represented 30 percent of Chilean imports in 1997. However, U.S. exports were only 19,000 metric tons, with a value of $26 million, which represented just 8.3 percent of Chile’s paper and paperboard imports last year. As a result of the tariff eliminations in this agreement, the U.S. paper industry will now be able to regain access to the Chilean market.

Chilean salmon has been a controversial issue in the past, but recent steps taken by both the Chilean salmon industry and the Maine salmon industry to work jointly on promoting the value of farm-raised salmon has alleviated this concern. The Maine industry supports this agreement, which is monumental considering their past differences with Chile. I have heard from the Maine Aquaculture Association and Maine salmon producers like Heritage Salmon, which support this free trade agreement and look forward to future opportunities in the Chilean market. These two former rival industries have shown a deep understanding of how to evolve in the era of global trade.

Recognizing the potential effects on another industry in our state, USTR provided me with unequivocal assurances about its position on the unique concerns of rubber footwear, and New Balance has indicated to me that they are pleased that USTR has shown sufficient sensitivity to this industry in both the Chile and Singapore FTAs.

The rubber footwear section of the agreement provides for six annual reductions of 5 percent, followed by three of 10 percent and a final one of 40 percent. This nonlinear phaseout goes to a foreign customer and exports support 1 of every 5 manufacturing jobs. Recognizing the potential effects on another industry in our state, USTR provided me with unequivocal assurances about its position on the unique concerns of rubber footwear, and New Balance has indicated to me that they are pleased that USTR has shown sufficient sensitivity to this industry in both the Chile and Singapore FTAs.

The rubber footwear section of the agreement provides for six annual reductions of 5 percent, followed by three of 10 percent and a final one of 40 percent. This nonlinear phaseout
Singapore represents Maine's second largest recipient of exports with almost $250 million in 2002, second only to our neighbor to the north. Most of these exports are from the strong semiconductor industry in Maine. I have been referred to by an assistant professor at the University of Maine state that they look forward to the closer economic ties that will be formed under the U.S.-Singapore FTA.

I have also heard from The Baker Company in Sanford, ME, which is a manufacturer of state-of-the-art agricultural equipment. The company has 150 employees who do everything from research and development, engineering, manufacturing, and even sales from their headquarters in Sanford. The Baker Company represents just one of the many small manufacturers across America whose sales to Singapore will benefit from this agreement. Hopefully, the 135 percent growth in Maine exports to Singapore last year alone will continue under this FTA.

In my opinion, these agreements will offer new export opportunities for Maine agriculture. I have been told by Maine potato farmers and the Maine Farm Bureau that they support these agreements. While they would have preferred a more accelerated phase-out of some of the tariffs on agriculture exports to Chile, the industry hopes this agreement will allow Maine potatoes to regain some of their previous market-share in Chile that was lost after the Chilean FTA was signed with Canada.

As a result of these two agreements before us today, many industries stand to benefit, including the forest and paper, rubber footwear, salmon, lobster, agriculture, semiconductor, precision manufacturing, and electronic industries of my home state. Therefore, I am optimistic that these two agreements, based on this administration's comprehensive approach to FTA's, are sure to gain strong bipartisan support. Under this administration, the U.S. approach to trade has greatly improved. However, I have several remaining concerns. While I am pleased by some of the steps taken by USTR to address the interests of small businesses, there is much more still to be done. In addition, while the improvements to Trade Adjustment Assistance have been welcomed, I still believe we must address the needs of communities that have been negatively impacted by trade, so that retrained workers have new opportunities for employment.

I look forward to working with my colleagues to address these, and other, concerns and to continue our efforts to promote a U.S. trade policy that benefits America.

Mr. CONRAD. Mr. President, I want to take a few moments to comment on the trade legislation we are considering and our trade policy more generally.

Let me start by saying that I intend to vote in favor of the implementing legislation for both the Singapore and Chile free-trade agreements. In both cases, the agreements will provide commercial benefits to the United States, removing barriers to the exports of our goods and services. Both Singapore and Chile have relatively advanced economies, with relatively strong environmental and labor protections, and the manufacturing jobs relocating to these countries is small. In short, Chile and Singapore are the sorts of partners we should be seeking out if we are going to negotiate free-trade agreements: partners with whom we can provide complementary commercial opportunities, not partners who are chosen primarily for political, not economic, reasons.

In particular, the Chile Free-Trade Agreement will provide export opportunities for North Dakota agriculture. Ever since the idea of a Chile FTA was first broached more than a decade ago, I have insisted that any agreement must result in the removal of China's price bands that have served to limit our market access. This agreement accomplishes that long-held goal. In addition, it levels the playing field with our leading competitor for export sales to Chile. Currently, Canadian wheat exporters enter Chile tariff free, but U.S. exporters pay an 18 percent tariff. This agreement will eliminate the tariff disadvantage our wheat exports currently face and allow us to recapture Chilean export sales we have lost to Canada in recent years.

I would also like to comment briefly on the sugar provisions of the Chile FTA. These provisions were carefully crafted to ensure that Chile could not import sugar to meet its domestic needs and then export its entire domestic production to the United States. In particular, the agreement provides preferential tariff access to Chilean sugar only if and to the extent that Chile is a net exporter of specified sugar products. All other Chilean sugar will be subject to MFN tariff rates. During the Finance Committee's formal consideration of the implementing legislation, I posed a number of questions to Ambassador Zoellick to ensure that the Senate had a full understanding of how these provisions work. However, important as these provisions are, they cannot serve as a model for other FTAs that the administration is negotiating or considering. Frankly, Chile is a tiny producer of sugar, and it is extremely unlikely that it will ever be a net exporter of any significance. But the same is not true for Australia, Central America, South Africa, or Thailand, all of which are being considered for FTAs. The Chile provisions, if they were included in these other agreements, would devastate our sugar industry.

U.S. producers are highly efficient, and U.S. consumers enjoy some of the lowest prices in the developed world. The risk of American farmers losing most distorted commodity markets in the world, with subsidies, protected markets and all sorts of nontariff, nontraditional barriers to free trade, unless we address these issues on a global basis and eliminate these distortions, I fear that these FTAs will wipe out our efficient sugar industry to the benefit of less efficient, highly subsidized producers in other countries.

More generally, I am concerned that these FTA partners are being chosen primarily on the basis of political and foreign policy calculations rather than on the basis of potential economic benefits to our country. In my view, that is a profound mistake. There has been bipartisan agreement in the Congress that the top priority for U.S. trade policy should be leveling the playing field in agriculture. However, the administration's pursuit of these bilateral FTAs threatens to undermine that goal. Australia, Central America and Thailand are simply not going to be huge markets for U.S. agricultural goods. But imports of sensitive products from these countries could have a devastating impact on important U.S. agricultural commodities. Put simply, there is very little upside to these agreements for U.S. agriculture, and a lot of potential downside.

Moreover, to the extent we are investing significant resources in negotiating these bilateral FTAs, we are divesting resources away from the WTO agriculture negotiations, which should be our primary focus. Only by addressing the market access barriers and inequities in domestic support on a worldwide basis can we be sure that U.S. agriculture will achieve the level playing field and access to growing markets that it needs to thrive in the 21st century.

Finally, I share the concerns of many of my colleagues about the disappearance of U.S. manufacturing jobs and the hollowing out of our industrial base. As we look forward to trade negotiations with the low-wage nations of Central America and Thailand, we must tailor the labor provisions of these agreements to the unique conditions so that we do not allow exploitative conditions that give these countries an unfair advantage over U.S. businesses.

In conclusion, I support these agreements. They will provide modest economic benefits to our country. But they cannot and should not serve as one-size-fits-all models for future bilateral FTAs. Future agreements must be tailored very carefully into account the strengths and weaknesses of our various trading partners, to ensure that they provide commercial benefits to U.S. agriculture, services, and manufacturing.

I ask unanimous consent to print the following information in the Record from questions I submitted to Ambassador Zoellick:

There being no objection, the material was ordered to be printed in the Record, as follows:

AMBASSADOR ROBERT ZOELLECK RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD BY SENATOR KENT CONRAD, CHAIR, SENATE FOREIGN RELATIONS COMMITTEE, JULY 10, 2003

1. Chile Sugar Provisions. Ambassador Zoellick, as you well know, the details of
trade agreements are critically important. I want to have on the record an understanding of how the sugar provisions in the Chile agreement work, so I have a series of questions regarding the implication of these provisions.

First, my general understanding is that this agreement gives Chile preferential access to the US sugar market, but only if and to the extent that it has a net trade surplus in sugar. Is that correct?

More specifically, my understanding is that the agreement defines a net trade surplus in sugar as total exports of sugar, sugar containing products and high fructose corn sweetener minus total imports of these products, except that Chilean imports of HFCS from the US count.

Third, my understanding is that unless Chile has a net trade surplus in sugar, Chile will have preferential access under the agreement, and not just during the 12 year phase in, but in perpetuity. Is that correct?

Fourth, my understanding is that if Chile does have a net trade surplus in sugar, the agreement gives Chile up to 2000 tons of duty free access immediately, gradually increasing to 3200 tons in year 11 of the agreement. Is that correct?

Fifth, to the extent that Chile's net trade surplus is less than the TRQ limit, my understanding is that Chile's duty free access would be limited to the amount of its net trade surplus in sugar. Is that correct?

Sixth, my understanding is that the agreement defines the over quota duty rate to 0 over the 12 year phase in period. Is that correct?

Seventh, my understanding is that this preferential over quota duty rate would be limited by the amount of Chile's net trade surplus, and any imports above this would be subject to the applicable duty rate. Is that correct?

Finally, after the end of the 12-year transition period, my understanding is that Chile's duty free access to the US would be limited to the amount of its net trade surplus in sugar. Is that correct?

Response: With respect to trade is sugar and sugar-containing products (SCPs), we are pleased that we were able to reach agreement with Chile on provisions to address our industry's concern that the FTA not operate as a vehicle for the transshipment of sugar product imports. Accordingly, each side agreed that its access to the other's market under the agreement will be limited to the amount of its net trade surplus in specified products.

Your understanding of these provisions is correct. To summarize:

During the transition period, Chile's duty-free access for specified sugar products and SCPs will be limited to the lesser of the specified in-quota quantity or the amount of Chile's net trade surplus. Chile's net trade surplus will be defined on the difference between Chile's imports and exports of sugar, SCPs, and high fructose corn syrup (HFCS), not including imports of HFCS from the United States.

During the transition period, if Chile's net trade surplus exceeds the specified in-quota quantity, then a declining over quota tariff will be applied on the amount by which the net trade surplus exceeds the specified in-quota quantity.

After the transition period, Chile's duty-free access will be limited to the amount of its net trade surplus.

During and after the transition period, any imports above the net trade surplus would be subject to our prevailing normal trade relations/most-favored-nation tariff rate.

Implications for Other FTAs. Ambassador Zoellick, I would also like to raise a concern I have regarding the implication of these sugar provisions for the other FTAs that are being negotiated. Frankly, Chile is a tiny producer of sugar, and it is extremely unlikely that it will ever be a net exporter of sugar. Any net sugar surplus is not true for Australia, Central America, South Africa, or Thailand, all of which are being considered for FTAs. The Chile provisions, if they were included in all of our agreements, would devastate our sugar industry.

U.S. producers are highly efficient, and U.S. consumers enjoy some of the lowest prices in the developed world. The fact is that sugar is one of the most distorted commodity markets in the world, with subsidies, protected markets and all sorts of non-tariff barriers. Unless we address these issues on a global basis and eliminate these distortions, I fear that these FTAs will wipe out our efficient sugar industry to the benefit of less efficient, highly subsidized producers in other countries. Can you assure me that you do not intend to just take the Chile provisions and apply them to these other countries but will instead look to some other approach that takes into account the amounts of sugar these countries are capable of exporting into our country?

Response: As reflected in the outcome of the Chile negotiations, we are sensitive to our industry's concerns. We recognize that sugar is a different commodity, that it is the United States' largest trading partner, and that it is the United States' major sugar importer.

Mr. THOMAS. Mr. President, as the world's largest trading nation, trade is key to the long-term economic growth of the United States. Nearly, 26 percent of the United States' gross domestic product is directly tied to trade activity. One in three acres is planted for export to other nations and more than four out of ten products manufactured in the United States are exported.

The United States needs to foster strong trading relationships to create opportunities for domestic businesses and to help open markets for the United States. The United States-Chile Free Trade Agreement, the outcome of the Subcommittee on International Trade, I heard from manufacturers, ranchers, and financial service companies on the importance of opening new markets to U.S. goods and services. The agreement represents two opportunities we cannot afford to let pass by.

Since 1997, exports from the United to Chile have fallen from 24 percent to just under 17 percent. Exports from the United States to countries with trade agreements with Chile have risen during the same time period from 25 percent to 34 percent. Manufacturers and ranchers in the United States have already lost one-third of the Chilean import market to countries with trade agreements with Chile. The National Association of Manufacturers estimates that the current lack of a trade agreement with Chile costs exporters, $800 million per year in lost sales, affecting 10,000 jobs in the United States. We must act now to reverse this trend.

Upon passage of the Chile agreement, more than 85 percent of consumer and industrial products will immediately become duty-free, with most remaining tariffs eliminated within 4 years. More than three-quarters of farm goods from the United States will enter Chile tariff free within 4 years with all tariffs phased out within 12 years.

The Singapore free trade agreement will provide similar benefits to United States businesses. Singapore is America's twelfth largest trading partner, with annual two-way trade of goods and services of more than $30 billion. As that free trade agreement takes effect, all exports from the United States to Singapore will enjoy zero tariffs. The agreement will also guarantee fair and non-discriminatory treatment and greater market access for United States firms into Singapore's financial and services industry.

Expansion of trade opportunities for businesses and industry in the United States is good for our Nation. These agreements create new access opportunities for goods and services from the United States. They are good for our ranchers and farmers, and I support passage of the United States-Singapore, and the United States-Chile trade legislation.

Mr. DURBIN. I support the Singapore and Chile Free Trade Agreements. I maintain reservations about certain sections of this agreement, but overall I believe that this Free Trade Agreement between the United States and Chile is good for our Nation. The United States-Chile Free Trade Agreement, FTA, include strong and comprehensive commitments for the United States and Chile to open their goods, agricultural and services markets to U.S. producers. The agreements include commitments that will increase regulatory transparency and act to the benefit of U.S. workers, investors, intellectual property holders, business and consumers.

These agreements have one of the highest levels of intellectual property rights protections that we have ever offered in any trade agreement with any other nation. We are concerned about the rights of those who create music, entertainment, software, and technology products, and we are concerned about manufacturers' patents.

I am particularly pleased about the benefits this agreement provides with respect to agriculture. The Chile Free Trade Agreement will eliminate tariffs on 85 percent of the U.S. exports to Chile immediately. Under the United States-Chile Free Trade Agreement, American workers, consumers, businesses, and farmers will enjoy preferential access to a small but fast-
growing economy, enabling trade with no tariffs and under streamlined customs procedures.

This is good news for my home state of Illinois as well as my home district of Illinois, including pork, beef, wheat, grains, and tobacco will enter China duty-free within 4 years. Other duties on U.S. agriculture products will be phased out over 12 years. In addition, an agreement was worked out with Singapore and U.S. trade negotiators on allowing chewing gum into the country. This is beneficial for Illinois because the government will only allow two brands of gum, both produced by Wrigley.

While some of the provisions in these FTAs could serve as a model for other agreements, a number of provisions clearly cannot be, nor should they be. I believe that each country or countries with whom we negotiate are unique; and provisions contained in the Central America Free Trade Agreement, CAFTA, where the conditions may make it impossible to do so. Specifics such as those related to the environment, there are separate dispute settlement rules that place arbitrary caps on the enforcement of those provisions. Moreover, these agreements contain an "enforce your own laws" standard for dealing with labor and environmental disputes. Many of us support Chile and Singapore Free Trade Agreements not only because they have decent labor laws, but because they have the ability and willingness to enforce them.

Concerns about labor and environmental standards, however, should receive careful scrutiny on a case-by-case basis as different circumstances and situations warrant. Use of the "enforce your own laws" standard is invalid as a precedent—indeed is a contradiction to the purpose of promoting enforceable core labor standards—when a country's laws clearly do not reflect international standards and when there is a history of non-enforcement, but of a hostile environment towards the rights of workers to organize and bargain collectively. Using a standard in totally different circumstances will lead to totally different results.

My vote for the Chile and Singapore FTAs should not be interpreted as support for using these agreements as a model for future trade negotiations. I will evaluate all future trade agreements on their merits and their applicability to create a framework that core international labor rights and environmental standards are addressed in a meaningful manner. Expanded trade is important to this country and the world; but it will be beneficial to a broad range of persons in our nation and in other nations only if these trade agreements are carefully shaped to include basic standards, including the requirement that nations compete on the basis of core rights for their workers, not by suppression of these basic rights.

I support the promotion of free trade, but I join my colleagues on both sides of the aisle in expressing concern that the Administration is developing immigration policy that is the purview of Congress. This should never happen again. The United States Trade Representative, USTR, should not be creating new immigration strategies. While I support the free trade agreements with Chile and Singapore, I want to convey to USTR that I will look long and hard at any free trade agreements that include similar immigration provisions in the future.

Mr. LEAHY. My Amendment, I will vote in favor of the Free Trade Agreements with Chile and Singapore because the benefits of the intellectual property and anti-piracy provisions in these agreements outweigh the valid concerns that have been raised about the inclusion of immigration provisions.

At the outset, let me begin by expressing my disappointment that the administration short-circuited the proper consultation procedure for these implementing bills through its decision to transmit them to Congress 2 days before the Judiciary Committee's scheduled debate, and before responding to written questions from this committee's members. To be fair, the administration did eventually respond to these questions. Of course, as the responses themselves pointed out, "the implementing bill cannot be modified after its introduction."

The administration apparently views the Judiciary Committee simply as an obstacle to be overcome as quickly as possible, and not as a source for possible improvements to its legislative proposals. As a result of the administration's undue haste—and the Judiciary Committee's failure to begin consideration of these measures early enough to guarantee that it could have meaningful input—we were deprived of the opportunity to propose changes in the implementing legislation. Instead, we were required to pass an up-or-down vote on final passage of these implementing bills only 2 days after their introduction.

I share the concerns expressed by Senators FEINSTEIN, LINDSEY GRAMM, and Sessions that the U.S. Trade Representative should not be in the business of amending domestic immigration laws, as these treaties do. The decision to include immigration provisions was not only unauthorized by Congress, it also fails to achieve the administration's stated goals. Congress has already created the H-1B program, which allows foreign workers with specialized skills to work in the United States. That program was established after a lengthy process of public hearings, debate, and negotiation. If the administration feels that program needs to be changed, or a new visa category created, it should have sought to do so through the ordinary legislative process.

This matter is of particular concern because these agreements are widely viewed as the template for future trade agreements, many of which are being negotiated as we speak. I hope that the administration has gotten the message from members on both sides of the aisle and both chambers that Congress does not intend to delegate its power over our immigration system to the executive branch. I for one believe that we should do more than express our concerns and hope that they are heed. As a result, I have introduced the Congressional Responsibility for Immigration Act, a bill to prevent the use of fast-track procedures for trade agreements that include immigration provisions.

On the whole, however, I support these agreements because they recognize that intellectual property, and our response to international piracy, part of this is an integral part of the trade structure. The United States is the world's leading creator and exporter of intellectual property. That means we are also the world's leading target for piracy of copyrighted works. New technology has made piracy cheap and easy, and everything from music to films to books is susceptible to this kind of theft. At the same time, the advent of new technologies means that international distribution of copyrighted works is increasingly viable, and necessary, if the U.S. intellectual property industry is to continue to thrive.

These agreements go a long way to harmonize the intellectual property laws of Singapore and Chile with those of the United States. They make IP systems in each country more transparent, uniform and predictable. This is a significant benefit to U.S. industries that depend on transparency and predictability in order to be able to protect their rights in these countries. The agreements also call on the countries to recognize and uphold the rights of authors to control the electronic dissemination of their works, and to protect encryption that safeguards such electronic dissemination. This too is important, because more and more intellectual property is being distributed electronically. If intellectual property holders cannot securely distribute their works, in electronic form, a major source of revenue is lost, and American creativity is hampered.

Intellectual property is increasingly an international business, one that negotiated as we speak. It is essential to many of its problems. Despite my concerns about the immigration provisions in these agreements, I will support their passage because they improve
international cooperation on intellectual property issues.

Mr. CHAFEE. Mr. President, today the Senate takes up legislation to implement important free trade agreements with Chile and Singapore. Through the tireless efforts of President Bush's forward-looking Trade Representative Robert Zoellick, the U.S. has signed trade pacts that will strengthen relations with two of our best friends worldwide: Chile and Singapore. These agreements are to the benefit of part so the people of all three nations can realize the benefits of these agreements. I commend President Bush and Ambassador Zoellick their hard work in negotiating these agreements, and for upholding the principle that economic engagement worldwide works for the betterment of all the world's people.

Like most of our friends and neighbors throughout the world, the United States faces serious economic challenges as well. We must work our way out of a period of recession and growing budget deficits. One means, and certainly not the only one, of strengthening our own economy while lifting others around the world, is to open barriers and expand markets. The promotion of free trade has characterized economic relations among the nations of the world during recent years. Our competitors in Europe, Asia and Latin America have sealed deals on about one hundred and fifty preferential trade compacts, some within our own hemisphere.

Yet the U.S. party to only three of these agreements—NAFTA and respective free trade agreements with Israel and Jordan. I was astounded to learn that the European Union now exports more to South America than the United States. Congress would do the American people an injustice if we allowed the U.S. to continue to be left behind in the promotion of free trade both so the people of all three nations can realize the benefits of these agreements. I commend President Bush and Ambassador Zoellick their hard work in negotiating these agreements, and for upholding the principle that economic engagement worldwide works for the betterment of all the world's people.

Like most of our friends and neighbors throughout the world, the United States faces serious economic challenges as well. We must work our way out of a period of recession and growing budget deficits. One means, and certainly not the only one, of strengthening our own economy while lifting others around the world, is to open barriers and expand markets. The promotion of free trade has characterized economic relations among the nations of the world during recent years. Our competitors in Europe, Asia and Latin America have sealed deals on about one hundred and thirty preferential trade compacts, some within our own hemisphere.

Yet the U.S. party to only three of these agreements—NAFTA and respective free trade agreements with Israel and Jordan. I was astounded to learn that the European Union now exports more to South America than the United States. Congress would do the American people an injustice if we allowed the U.S. to continue to be left behind in the promotion of free trade. This agreement is a win-win for the betterment of all the world's people.

Free trade, rather than imposing U.S. values and robbing peoples of their culture, creates new economic opportunities and helps raise the standard of living for millions of people. Our experience with NAFTA, for example, shows how profoundly this agreement has boosted exports and created jobs. Indeed, U.S. merchandise exports to Mexico were up almost 170 percent in NAFTA's first eight years, well above the average U.S. export increase. For Mexico, the news is also positive, as the NAFTA-related export boom was responsible for more than half the 3.5 million jobs created there since 1995.

Free trade is also a successful policy for other countries as well. Consider this: since 1987, 140 million people in the trade-dependent economies of East Asia have been removed from he ranks of abject poverty. On the other hand, economically isolated South Asia and much of Africa experienced an increase in poverty during the 1990s.

But the economic potential of regional and bilateral free trade agreements tell only part of the story. It is my view that strengthening economic bonds between the U.S. and developing nations will concurrently strengthen the forces of political reform as well.

The experience of Mexico is illustrative. Most observers give at least some credit to NAFTA for encouraging Mexico's political maturity, which saw the peaceful replacement of a political party that had a 70-year lock on that nation's presidency. Future in-trade initiatives in Asia, Latin America and the Middle East could encourage the kind of dramatic political gains that, in recent decades, have transformed many of the world's nations from authoritarian regimes into functioning democracies.

Trade in goods and services between Chile and the U.S. is growing and today amounts to more than $8 billion. Under this FTA with Chile, more than 85 percent of bilateral trade in consumer and industrial products will be tariff-free immediately, with most remaining tariffs eliminated within four years. Enactment of this agreement will improve an already strong U.S.-relationship with a nation that has overcome a legacy of political division and economic isolation. Chile's military coup and resulting dictatorship in the 1970s and 1980s has today been replaced by a functioning, outward-looking democracy. And it is not surprising that Chile's commitment to a free trade agreement and its political reconciliation and growth.

President Bush's free trade agreement is the first U.S. FTA with an Asian nation and could spur future similar initiatives in that important region of the world. It will strengthen an already strong economic relationship with America's 12th largest trading partner by guaranteeing zero tariffs immediately on all U.S. goods entering Singapore. The $40 billion in two-way trade in goods and services between the U.S. and Singapore will surely increase through this FTA.

And both of these agreements do far more than simply encourage additional free trade. Like our free trade agreement with Jordan, these agreements with Chile and Singapore include strong provisions related to labor and the environment. Under them, all three countries agree to: One, support International Labor Organization (ILO) core labor standards and internationally recognized worker's rights and, two, effectively enforce their own labor laws in the trade-related matters. Penalties for violations are $35 million annually, with failure to pay leading potentially to suspension of benefits.

These agreements also do not forget the need to ensure protection of the environment. Under them, parties are to ensure that their domestic environmental laws provide for high levels of environmental protection and are effectively enforced. Parties must also strive to continue to improve their environmental laws. Finally, the agreements make clear that it is inappropriate to weaken or reduce domestic environmental protections in order to encourage trade or investment. These environmental provisions are not just words: they are obligations enforced through each agreement's dispute settlement procedures.

Approval of these two FTAs today is an important early step in implementing a bold free-trade agenda. Other such agreements with a great many other nations are either being negotiated or are under consideration. I am hopeful that today's strong vote in Congress will encourage increased U.S. economic engagement and bring about additional market-opening, job-creating free trade agreements. I urge all of my colleagues to support this much needed legislation.
quality jobs could be adversely affected by eliminating or restricting drawback. In my own home state of Louisiana, drawback and duty deferral programs provide substantial benefits to local industries, allowing them to compete on a level playing field in the global marketplace.

Drawback makes a significant difference to U.S. companies at the margin when exporting to our FTA partners where they compete against foreign producers that either have substantially lower costs of production or enjoy low or zero import duty rates. Export promotion programs are one of the last WTO-sanctioned programs which provides a substantial advantage to U.S. companies participating in the export market. The application of these programs to U.S. manufacturers and exporters should not be restricted in future free trade agreements that we negotiate with our trading partners.

We need to work hard to complete free trade agreements that provide as many competitive advantages as we can to U.S. manufacturers competing in the global market, encourage growth in U.S. exports, and create U.S. jobs.

Mr. KOHL. Mr. President, I rise today to explain my opposition to the Singapore and Chile Free Trade Agreements. As a former businessman, I understand that trade has always been an important part of our economy. American workers are productive, and access to foreign markets is key to their prosperity.

Last year alone the State of Wisconsin exported $10.6 billion worth of goods around the world. Unfortunately, because the Administration chose to abuse the fast track process and include unrelated immigration issues in these agreements, I was not able to support these agreements.

My opposition to these agreements is not based on the tariff reductions and market access measures included in the bills. Agreements between the U.S. and these countries make good economic sense. Canada and Europe already have free trade agreements with Chile and it has hurt our access to that market. While U.S. products face a 10 percent tariff, the same products from other countries do not. In Wisconsin we sell large mining equipment and bulldozers to Chile, but since 2000 our sales of mining equipment has tailed off. There may be many reasons for this reduction in commerce, but the fact that we face a 10 percent tariff, while our competitors from Europe do not, is not helping. This agreement will go far toward giving U.S. companies a fair and even playing field.

That said, our trade policy with other countries has been far from an unqualified success. Since 2000 Wisconsin has lost 70,000 manufacturing jobs. Almost one out of every eight jobs that we thought we would keep have disappeared. Some of this job loss is a result of the recession. Some of these jobs have been moved to Mexico, and some of these have been unable to compete with low wages in China. Most damaging, however, may be the currency manipulation of the Chinese Government. Some experts believe the Chinese may be artificially keeping their currency undervalued by as much as 50 percent. The value of products from China are 50 percent cheaper than they would normally be. This is on top of low wages and almost no environmental regulations, which also work to depress prices.

Free trade only work when countries obey the rules and follow the law. I supported bringing China into the WTO because that would make it harder for them to cheat on their agreements. However, this administration has proven unwilling to press this currency issue with the Chinese. They have allowed the problem to fester unchecked, and our manufacturing base is paying the price.

The agreements before us now, however, are not with countries that have a history of avoiding their commitments, or that do not enforce their labor laws, or with countries that are ruled by dictatorships. Singapore and Chile are responsible democracies with strong labor laws and systems. In the case of Singapore, the wage rates are comparable, although not the same, as the United States. Chile and Singapore have little in common with China, and should not be painted with the same broad brush. These countries also represent a significantly smaller portion of our foreign trade. Singapore represents 1.7 percent, and Chile represents 0.3 percent of total U.S. Trade, exports and imports combined and opening our market to them will have much less impact on our economy than our opening to China.

Many have criticized these agreements because the labor provisions attached to the agreement are not strong enough. A recent United States-Jordan Free Trade Agreement had much stronger labor provisions than the agreements before us now. That agreement had real accountability and real consequences if Jordan failed to keep up its side of the bargain. The administration argues that Chile and Singapore have responsible laws that are adequately enforced, and so do not need the highly prescriptive language that was included in the Jordan agreement. I agree with their arguments.

It is no surprise that countries pay the price. While these labor provisions may be adequate for Chile and Singapore, countries with good records, they should not be used as a model for future multilateral agreements in the region. The Free Trade Area of the Americas, and the Central American Free Trade Agreement will need substantially stricter labor and environmental provisions than these to get my vote. Large multilateral agreements with countries that are budding democracies and have poor records of protecting workers cannot be treated in the same manner as Chile and Singapore.
Even though these agreements had problems and were not perfect, I was inclined to support them because I generally vote to support free trade. I felt these countries would be good partners and these agreements would be unlikely to have significant negative impact on our economy. But the Bush administration pushed the envelope of fast track too far when immigration provisions were included in the implementing legislation.

Both trade agreements contain provisions which create a new visa category for the temporary entry of business professionals. These provisions were negotiated as part of the larger trade agreement by the United States Trade Representative, USTR, which has no specific authority to implement new visa categories or make modifications to our temporary entry system. Further, these provisions were negotiated without the direction of Congress, which has traditionally debated and decided on immigration policy. These actions by the USTR set a dangerous precedent for immigration policy to be negotiated behind closed doors without a complete debate. Both our Nation's security and its diversity depend on well-considered immigration policy.

Second, the administration transmitted the implementing language for these trade agreements to the Senate before responding to concerns expressed at a Judiciary Committee hearing. This language is unamendable once transmitted, so it is critical that Congress be consulted fully on implementing language before transmission. Immigration policy lies squarely in the jurisdiction of the Judiciary Committee; for the administration to finalize immigration language before the Judiciary Committee has had a chance to analyze a draft and improve the language is an unacceptable way to do business.

These agreements I have decided to oppose will undoubtedly pass. Chile and Singapore have shown they are willing to play by the rules, and have democracies who will hold them accountable if they undermine their own labor and environmental laws. I expect there will be disputes in the future, there will always be between partners, but Chile and Singapore will work with us to settle those disagreements when they do come around. However, future agreements with countries with lower standards will have to do more to secure labor and environmental rights before I will support them. We need to move toward the United States-Jordan model, where we explicitly account for ability in trade agreements before this administration can expect my vote in favor of FTAA or CAFTA.

This undermining of the fast-track procedure, however, cannot be repeated. I intend for Congress to support it as a tool to give the President the ability to negotiate with other countries in good faith, but it should not be used for issues that are not trade related. Future agreements that carry unrelated provisions will not get my vote. I hope the administration hears this message and gets back to the business of focusing on our trade agenda, and leaving the immigration issues to the Congress where they belong.

Mr. VOINOVICH. Mr. President, I rise in strong support of S. Res. 211. I join my colleagues to speak out against the administration using these trade agreements to implement immigration policy without the authority or direction to do so from Congress. It is the function of the Congress to set policy on the immigration laws of this country, and in this case, the USTR overstepped its bounds. This resolution sends a message to the administration that the USTR has overreached its negotiative authority by including immigration provisions in the FTA, and in the future, they must consult with Congress before implementing new policy, and I strongly support it.

I am a strong free-trader whose State has benefited from free-trade agreements. I do have some concerns, however, about the enforcement of trade laws and I have expressed those concerns to the administration. Free trade must also be fair and I will continue to pay close attention to our trade agreements and their enforcement to make sure that American workers are not hurt by unfair trade.

Mr. CORZINE. Mr. President, I will vote against the free-trade agreements, and I want to take a few minutes to explain why.

Having spent many years in the financial world, I understand the tremendous value of trade to America and to nations around the world. Free and open trade can enhance prosperity, create jobs, and increase opportunity. That is why I supported the North American Free Trade Agreement between America, Canada and Mexico. I am not alone. The President also supported free-trade agreements. Measures like these held the promise of greater economic growth to the benefit of citizens in all countries involved and represented a growing movement toward freer trade around the globe.

Yet in recent years, we have seen a serious deterioration of the trade situation here in the United States, and our Nation's trade deficit has doubled in the last four years. This deficit in the first quarter of this year increased to more than $136 billion, and many projects that will surpass $500 billion this year. That means that every day, we are being forced to borrow nearly $2 billion, because of our trade imbalance. That is a serious problem, and it is simply unsustainable. Something is not right with our ability to export American goods and services, but particularly manufactured products.

Beyond the impact of the trade deficit, American businesses increasingly are shipping jobs overseas. Not just low-skilled jobs, but professional, highly skilled and well paid jobs. That is one reason the so-called economic recovery touted by the Bush administration has widely been characterized as a jobless recovery. In fact, it is worse than a jobless recovery, it is a job-killing recovery. And while workers are left counting the cost, our trade policy is helping to create jobs overseas. Today, many American firms are outsourcing high-technology jobs to low-wage environments to the detriment of American workers.

Sadly, this trade policy has not received enough attention here in Washington. It is a matter affecting millions of Americans who are looking for work—well-paying, upwardly mobile work. And, I believe, it requires a serious rethinking of our Nation's whole approach to trade.

Unfortunately, the trade agreements considered last night failed to address this problem, and I have many concerns about them.

For example, I am quite concerned about provisions in the agreements that effectively overrule immigration laws and allow thousands of foreigners to enter our country to take what will often be highly paid positions. These people will take jobs away from Americans who want them and need them. And it is especially disturbing that such a significant change in immigration laws is being included in a trade agreement. As I see it, immigration is the type of matter that deserves close attention here in Congress, with a full opportunity for debate. It is not something that should be rammed through without any meaningful opportunity for amendment or public input.

I also am concerned about the inadequacy of the labor protections, included in the agreements.

Mr. President, I supported the Jordan Free Trade Agreement in part because it recognized the importance of protecting worker rights. That agreement ensured that both nations adhere to internationally recognized worker protection standards, and that worker rights could be enforced. It also ensured that labor standards were subject to the same procedural protections as the other provisions of the agreement. The Chilean and Singapore agreements fail to meet that standard.

In the contrary, the labor protections in these agreements are not only much more narrowly defined—essentially dependent on the laws of the respective countries—but enforcement of those protections is much more limited, as well. For example, not all violations of labor laws could be enforced through the agreements—only those that are ‘sustained.’ Also, there are strict limits on the amount of fines and sanctions that are authorized in the current agreement. Unlike violations of other provisions in the agreement, this disparity in the treatment of labor and commercial violations, in my view is wrong.
Mr. President, I am concerned that the labor provisions in these agreements, and other similar provisions relating to environmental protection, will serve as a template for other trade agreements already under discussion. As I am sure my colleagues are, I believe there is a serious risk that the United States government would be making a serious mistake if it uses these provisions as a model for future agreements. I hope that will not happen.

Mr. President, the types of commercial, labor, and environmental issues addressed in these agreements are critical to the future of our nation, our economy, and millions of American workers. Yet, again, we are debating these agreements under expedited procedures that allow for every little debate and no amendments. In effect, while jobs continue to be sent abroad and millions struggle unsuccessfully to find work, the American people are being shut out of the process. In my view, that is not the right way to conduct the people's business.

Mr. President, I recognize that these agreements have, in fact been approved. But I would urge my colleagues, before we continue along the same theme path as we develop other similar agreements, let us take a step back and rethink our nation's whole approach to trade. Something is seriously wrong when America is hemorrhaging dollars and hemorrhaging jobs. We need to change course. And continuing blindly with a failed approach would be a denial of our responsibility to protect America's economy and America's workers.

I look forward to working with all of my colleagues to address these issues in the months and years ahead.

UNITED STATES-CHILE FREE TRADE AGREEMENT IMPLEMENTATION ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 2738, an act to implement the United States-Chile Free Trade Agreement.

The legislative clerk read as follows:

A bill (H.R. 2738) to implement the United States-Chile Free Trade Agreement.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill (H.R. 2738) was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll. Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from Maine (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 66, nays 31, as follows:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alexander</td>
<td>Daskie</td>
</tr>
<tr>
<td>Allard</td>
<td>DeWine</td>
</tr>
<tr>
<td>Allen</td>
<td>Durbin</td>
</tr>
<tr>
<td>Baucus</td>
<td>Ensign</td>
</tr>
<tr>
<td>Bayh</td>
<td>Enzi</td>
</tr>
<tr>
<td>Bennett</td>
<td>Fitzgerald</td>
</tr>
<tr>
<td>Bingaman</td>
<td>Frist</td>
</tr>
<tr>
<td>Bond</td>
<td>Griesa</td>
</tr>
<tr>
<td>Brownback</td>
<td>Gregg</td>
</tr>
<tr>
<td>Bunning</td>
<td>Hager</td>
</tr>
<tr>
<td>Burns</td>
<td>Harken</td>
</tr>
<tr>
<td>Campbell</td>
<td>Hatch</td>
</tr>
<tr>
<td>Cantwell</td>
<td>Hatchenson</td>
</tr>
<tr>
<td>Carpenter</td>
<td>Holden</td>
</tr>
<tr>
<td>Chafee</td>
<td>Kyl</td>
</tr>
<tr>
<td>Clinton</td>
<td>Landrieu</td>
</tr>
<tr>
<td>Collins</td>
<td>Levie</td>
</tr>
<tr>
<td>Conrad</td>
<td>Linch</td>
</tr>
<tr>
<td>Cornyn</td>
<td>Lugar</td>
</tr>
<tr>
<td>Dorgan</td>
<td>Klein</td>
</tr>
<tr>
<td>Domini</td>
<td>Kerry</td>
</tr>
<tr>
<td>Edwards</td>
<td>Lautenberg</td>
</tr>
<tr>
<td>Biden</td>
<td>Feingold</td>
</tr>
<tr>
<td>Boxer</td>
<td>Feinstein</td>
</tr>
<tr>
<td>Byrd</td>
<td>Graham (SC)</td>
</tr>
<tr>
<td>Chambless</td>
<td>Hamlin</td>
</tr>
<tr>
<td>Corzine</td>
<td>Hollings</td>
</tr>
<tr>
<td>Craig</td>
<td>Inouye</td>
</tr>
<tr>
<td>Crapo</td>
<td>Johnson</td>
</tr>
<tr>
<td>Dayton</td>
<td>Kennedy</td>
</tr>
<tr>
<td>Dodd</td>
<td>Kim</td>
</tr>
<tr>
<td>Marcas</td>
<td>LIEBERMAN</td>
</tr>
</tbody>
</table>

International trade can play a similar role at the beginning of the twenty-first century. That is part of what Trade Promotion Authority is all about. Trade Promotion Authority represents a partnership between the executive and legislative branches of government. It provides the President with Congressional support so he can negotiate the best trade agreements for America's workers. It provides certainty to our trading partners that any agreement reached will get timely consideration and will not be ripped apart by the U.S. Congress. In exchange for the authority to negotiate, Congress requires intense consultation and notification procedures. It provides a legislative check on the President's ability to negotiate. And it provides greater certainty to Congress that its intent is being followed. The success of these procedures can be seen by the strong support these two agreements enjoy today.

With our votes today we are locking in two strong trade agreements with our two strongest international trade allies, Chile and Singapore. With the passage of these agreements, we send a strong message to the world that the United States is back in the game. These bills would not have been possible without the able assistance of many people. First, I want to acknowledge the leadership of President George W. Bush and our U.S. Trade Representative, Ambassador Robert Zoellick. Their stalwart commitment to expanding export opportunities for America's farmers and workers was a major factor in passing Trade Promotion Authority last year and in concluding these two agreements.

I would also like to take a moment to thank some of those individuals in the Senate who helped to make this historic day possible. First, I want to thank my colleagues on the Finance Committee, especially the Ranking Member, Mr. BAUCUS. Working together, we demonstrated that international trade is not a Republican or a Democratic issue, but rather an issue that works for all Americans.

Next, I would like to thank my Finance Committee staff who has worked hard over the summer to get the implementing bills drafted and the materials ready so that we could consider these agreements before the August recess. It was not an easy task, and I appreciate their hard work and dedication.

First and foremost, I want to thank my Chief Counsel and Staff Director, Kolan Davis, whose ability to manage multiple legislative priorities is a key factor to the success of the Finance Committee's work. I also would like to thank my Chief International Trade Counsel, Everett Eisenstat, who successfully coordinated the efforts of the Finance Committee staff to ensure that members of this legislation move quickly. I also want to recognize the rest of my trade team, Carrie Clark, Zach Paulsen, David J. Johnson, Nova Daly, Stephen Schaefer and Cathy...
McKinnell. This group sacrificed many long hours to bring these agreements to fruition. Without their hard work and dedication, our success today would not have been possible.

Mr. BAUCUS had a good staff helping him with their work. Mr. FRIST. Mr. President, the majority leader does so modify. Calendar No. 305 would be a 10-minute vote; 306 would be a ten-minute vote, and the remaining three, 307, 314, and 315 would be en bloc and a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President, I have discussed this with the distinguished Senator from Mississippi. I have not heard any request from any of the members of the Judiciary Committee, chairmen or otherwise, on this. I have heard a number of members on the other side of the Judiciary Committee attack people on this side for not allowing judges to go through. This will make 245 of President Bush's judges going through. I was concerned because we have done so many by voice vote that my friends on the other side of the aisle have been so critical of this side for not allowing judges to go through. They may not have realized they were going through because we have voice-voted so many.

Because my good friend from Mississippi has asked me this as a personal matter, I have no objection to the request of the majority leader. The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, once we conclude action on the judges, we will have the opportunity to do so. I understand that bill will be passed by voice vote. We will be in session tomorrow morning and will have the opportunity to deal with any remaining legislative or executive items. Following Friday's session, the Senate will adjourn for the August recess until Tuesday, September 2. No roll call votes will occur that day, and I will have more to say about any roll call votes when we return tomorrow.

Nomination of James I. Cohn to be U.S. District Judge for the Southern District of Florida

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the nomination of James I. Cohn, of Florida, which the clerk will report.

The legislative clerk read the nomination of James I. Cohn, of Florida, to be a U.S. district judge for the Southern District of Florida.

The PRESIDING OFFICER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the pending motion and all amendments be withdrawn and the bill be returned to the calendar; further, that the two scheduled cloture votes be dismissed.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session and to consecutive votes on the following nominations on today's Executive Calendar: Calendar Nos. 305, 306, 307, 314, and 315. I further ask unanimous consent that following the votes, the motions to be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. LOT T. Reserving the right to object, Mr. President, I would like to inquire of the leader, does that mean we would then have five consecutive votes on the five district judges?

Mr. FRIST. Mr. President, the unanimous consent does mean that we will have five consecutive votes on the district judges.

Mr. LOTT. Mr. President, could I ask unanimous consent that the request be amended to the effect that we have a recorded vote on each judge and the next four be by voice vote?

Mr. LEAHY. I object.

Mr. LOTT. Could I propose that the request be amended so that we would have a recorded vote on the first three and count that as one, and that the last two be on voice vote?

The PRESIDING OFFICER. Does the majority leader so modify the request?

Mr. LEAHY. Reserving the right to object, could the distinguished Senator from Mississippi, my good friend, repeat that? I am not sure I understood.

Mr. LOTT. I was proposing the first vote would be en bloc on the first three judges and that the final two be by voice vote.

Mr. LEAHY. So the first vote would count for three.

Mr. LOTT. The first vote would count for three.

Mr. LEAHY. I have no objection.

The PRESIDING OFFICER. Objectation heard.

Mr. LOTT. Could I ask if the leader would consider a modification—with apologies to all because I know we would all like to wrap this up—that we have the first two votes be recorded votes of 10 minutes and the final three be voice votes. The PRESIDING OFFICER. Does the majority leader so modify his unanimous consent request?

Mr. FRIST. Mr. President, the majority leader does so modify. Calendar No. 305 would be a 10-minute vote; 306 would be a ten-minute vote, and the remaining three, 307, 314, and 315 would be en bloc and a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President, I have discussed this with the distinguished Senator from Mississippi. I have not heard any request from any of the members of the Judiciary Committee, chairmen or otherwise, on this. I have heard a number of members on the other side of the Judiciary Committee attack people on this side for not allowing judges to go through. This will make 245 of President Bush's judges going through. I was concerned because we have done so many by voice vote that my friends on the other side of the aisle have been so critical of this side for not allowing judges to go through. They may not have realized they were going through because we have voice-voted so many.

Because my good friend from Mississippi has asked me this as a personal matter, I have no objection to the request of the majority leader. The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, once we conclude action on the judges, we will have the opportunity to do so. I understand that bill will be passed by voice vote. We will be in session tomorrow morning and will have the opportunity to deal with any remaining legislative or executive items. Following Friday's session, the Senate will adjourn for the August recess until Tuesday, September 2. No roll call votes will occur that day, and I will have more to say about any roll call votes when we return tomorrow.

TEMPORARY ENTRY PROVISIONS IN THE CHILE AND SINGAPORE FREE TRADE AGREEMENTS

The PRESIDING OFFICER. Under the previous order, S. Res. 211 regarding immigration provisions is agreed to, the preamble is agreed to, and the motions to reconsider are laid on the table, en bloc.

The resolution (S. Res. 211) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 211

Whereas the transmittal of the legislation implementing the Chile and Singapore Free Trade Agreements to the Senate on July 15, 2003, is preceded by debate over whether temporary entry provisions in both the underlying language of the Chile and Singapore Free Trade Agreements and in the implementing legislation should be included;

Whereas article I, section 2, clause 3 of the Constitution authorizes Congress "to regulate Commerce with foreign Nations, and among the several States"; and article I, section 8, clause 4 of the Constitution provides that Congress shall have power to "establish an uniform Rule of Naturalization";

Whereas the Supreme Court has long interpreted these provisions of the Constitution to grant Congress plenary power over immigration policy;

Whereas members of the Senate often disagree about immigration policy, but agree that the formulation of immigration policy belongs to Congress; and

Whereas the practice of negotiating temporary entry provisions in the context of bilateral or multilateral trade agreements curtails the ability of Congress to regulate the Nation's immigration policies, including the admission of foreign nationals: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and

(2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that the pending motion and all amendments be withdrawn and the bill be returned to the calendar; further, that the two scheduled cloture votes be dismissed.

The PRESIDING OFFICER. Without objection, it is so ordered.
The question is, Will the Senate advise and consent to the nomination of James I. Cohn, of Florida, to be a U.S. circuit judge for the Southern District of Florida. The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from Mississippi (Mr. COCHRAN) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ‘aye’.

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 320 Ex.]

<table>
<thead>
<tr>
<th>YEA</th>
<th>AYE</th>
<th>LOTT</th>
<th>DODD</th>
</tr>
</thead>
</table>

The Presiding Officer. The question is, Is there a sufficient second? There appears to be a sufficient second.

Mr. McCONNELL. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Mississippi (Mr. LOTT) are necessarily absent.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ‘aye’.

The Presiding Officer. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 321 Ex.]

<table>
<thead>
<tr>
<th>YEA</th>
<th>AYE</th>
<th>LOTT</th>
<th>DODD</th>
</tr>
</thead>
</table>

The Presiding Officer. The question is, Will the Senate advise and consent to the nomination of H. Brent McKnight, of North Carolina, to be United States District Judge for the District of North Carolina?

The nomination was confirmed.

JAMES O. BROWNING, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The Presiding Officer. Under the previous order, the clerk will report Calendar No. 315.

The assistant legislative clerk read the nomination of James O. Browning, of New Mexico, to be United States District Judge for the District of New Mexico.

The Presiding Officer. The question is, Will the Senate advise and consent to the nomination of James O. Browning, of New Mexico, to be United States District Judge for the District of New Mexico?

The nomination was confirmed.

Mr. DOLE. Mr. President, I am delighted that my colleagues voted to confirm the nomination of Brent McKnight for one of the newly created judgeships in the Western District of North Carolina.

Mr. McKnight brings a wealth of experience to this position, and his resume and experience are impeccable. More importantly, Mr. McKnight is highly respected by his peers, a testament to his character and integrity.

Since 1993, he has served as a federal Magistrate Judge for the Western District of North Carolina, and he was appointed to the Advisory Committee on Civil Rules of the Judicial Conference by Chief Justice Rehnquist in October of 2001.

Brent McKnight has served as a state prosecutor and a District Court Judge for the 28th North Carolina Judicial District, and he maintains membership in the North Carolina Bar Association, the Federal Magistrate Judges Association, and many other organizations.

He has had a lifelong thirst for knowledge having been a Rhodes Scholar, and perhaps even more impressive to those of us in North Carolina, a Morehead Scholar at the University of North Carolina at Chapel Hill.
Hill, a prestigious award named after the well-known philanthropist and scientist, John Motley Morehead III. Currently, Mr. McKnight shares his knowledge with aspiring students as an adjunct professor at both Wingate University and the University of North Carolina at Charlotte.

It is critical that the Senate move quickly on this and other nominations so that our courts can get much-needed relief. In the Western District, where Mr. McKnight is nominated, caseloads have increased significantly. The Administrative Office of the U.S. Courts has indicated that the three U.S. District Court judges in the Western District have the fourth-heaviest caseload per judge among the 94 federal judicial districts across the country. For instance, the number of case filed in the district grew from 1,372 in 1996 to 1,518 in the year 2001. The number of cases pending rose over the same time period from 1,299 to 1,522.

This backlog in our courts must be alleviated. Approving the nomination of Brent McKnight would place a qualified and credible jurist on the bench and provide the overburdened Western District with much-needed relief.

Ron Madsen has my full support, and I would urge my colleagues to support his nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. SUNUNU. Mr. President, I ask unanimous consent the Senate proceed to a period for morning business.

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

RETIREMENT OF RONALD E. MADSEN

Mr. HATCH. Mr. President, I am grateful for the opportunity today to pay tribute to a wonderful man, dedicated public servant, and loyal friend, Ronald E. Madsen.

Ron is retiring from my Senate Staff after 21 years of dedicated service to the people of Utah, a time throughout which he worked tirelessly to promote and protect the values and ideals we all hold so dear.

Ron joined my staff in the early days of my Senate career and has always been a vital center of my Senate organization. He has served in many capacities including Utah state director, environmental and lands advisor, and most recently as staff counsel.

Ron Madsen has been a guiding influence for me. Over the years, we have navigated through many challenges and successes.

He has always diligently strived to provide sound counsel and steady support as we have worked together on issues facing Utah and the Nation.

In addition, Ron has played a vital role in working with many Utah industries and associations.

He spent many years advising and helping to promote the tourism and air travel industries throughout Utah.

He is a strong advocate for the Second Amendment and was a key liaison for my office in protecting this important constitutional right.

Over the years, Ron has spent literally months traveling Utah, meeting with county and city officials and getting a good feel for the issues and challenges Utahns are facing throughout our State.

But perhaps the most important and lasting service Ron performed were the literally thousands of hours he spent listening to and counseling constituents who called my office looking for assistance with a myriad of problems.

In Ron, they not only found help, they made a good friend. He has always been willing to work with all constituents, no matter their circumstances.

The friendship and help Ron Madsen extended has been invaluable to hundreds of thousands if not Utahns and will be felt for many years to come.

Ron was born and raised in Provo, UT where his family played an integral role in the community. He attended Brigham Young University where he received a Bachelor of Science Degree and graduated with honors. He was then awarded a 3-year trustee scholarship to George Washington University School of Law in Washington, D.C., where he served on the Law Review.

Ron later received his Juris Doctorate Degree with honors and went on to establish a successful and prestigious law career and was admitted to the bar of Maryland, Utah, and before the United States Supreme Court.

In addition to the service Ron has rendered in his community and our office, Ron is a loving father and grandfather. He is the proud father of one son and 2 daughters, and grandfather to 5 grandsons and 1 granddaughter.

I have often admired the dedication and devotion that Ron has always shown, not only to his children and grandchildren, but to his wife Kathryn who was sick for many years and is now deceased.

Ron stood by her side through her struggles with health and was a steadfast partner until the end.

Ron also has a true love for animals and has opened his home to many animals in need of care. He has helped his daughter, a veterinarian technician by trade, nurse many wounded creatures back to good health and improved their quality of life immeasurably.

He has sacrificed his talents, time and financial resources for the creatures of our earth—something truly noteworthy and honorable.

I am truly grateful for the service Ron Madsen has given to me, to his community and to Utah. He has been by my side for many, many years and I will always be extremely grateful for the service he has rendered.

I will miss Ron tremendously, but know that life holds many wonderful things for him to savor and enjoy.

And as Ron has always liked to quote—"you can go off the Hatch payroll, but never off the Hatch staff."

In the future, I plan to continue to rely on Ron Madsen for his very expert advice, for his guidance and support.

Ron is a truly dedicated public servant, fervently patriotic American, loving father and grandfather, and loyal and cherished friend.

I want to wish him the very best in retirement and pray for his continued good health, success and happiness.

THE NOMINATION OF WILLIAM Pryor

Mr. DASCHLE. Mr. President, it is with reluctance and disappointment that I must rise in opposition to another cloture vote for a judicial nominee. But once again, the extreme ideology of a nominee has left us with no other option. But there are no questions about Mr. Pryor's ability to apply and interpret the law fairly, the open questions surrounding Mr. Pryor's ethical fitness, the unfinished investigation in the Judiciary Committee, the fact that his nomination was reported out of committee in violation of committee rules, should compel the Senate to delay voting on this nomination. For both substantive and procedural reasons, Mr. Pryor's nomination should be put on hold. For that reason, I must oppose cloture.

I would remind my colleagues that we have invoked our right to unlimited debate with great rarity. Since President Bush took office, Democrats have been eager to cooperate in the nomination and confirmation of qualified judges who will enforce the law and protect the rights of all Americans. And we are proud of our record. When the Democrats held the Senate, we confirmed 100 of the President's judicial nominees. We rejected only two, Charles Pickering and Priscilla Owen. This year, we have already approved 40 more judges, and only 2 nominees, Miguel Estrada and Priscilla Owen, have previously met with sustained opposition. Democrats have sought compromise and consensus. And today, there are 140 judges sitting on the bench who serve as testimony to our cooperation.

But the importance of the Federal judiciary is too important to stand silently by and allow a nominee who has expressed hostility to the laws that protect the rights of all Americans. Mr. Pryor has repeatedly put his own personal and political beliefs above the dictates of the law. Throughout his career, he has been unable to find constitutional protection for even those rights that are clearly written and firmly established in case law. Not civil rights. Not voting rights. Not the right to privacy. In fact, Mr. Pryor has argued before the Supreme Court that it should cut back on the protections of
the Age Discrimination in Employment Act, the Civil Rights Act of 1964, the American with Disabilities Act, and the Family and Medical Leave Act. He referred to a recent decision reaffirming Miranda rights as “preserving the worst examples of judicial activism.”

And he was, in fact, the only State attorney general in the country to challenge the constitutionality of the Violence Against Women Act. Adhering to an extreme interpretation of States rights, Pryor has stated that “Congress . . . should not be in the business of public education nor the control of street crime.” Mr. Pryor has taken this position, even as President Bush has touted the importance that the Federal role in education and the COPS Program has put tens of thousands of new police officers on patrol in American towns and cities, contributing to the historic reduction in the crime rate of suspicion to hang above Mr. Pryor’s chair.

But even if we disagree on the merits of Mr. Pryor’s record, there can be no disagreement on the incompleteness of this debate. The Senate rules have preserved the unlimited debate because, as a deliberative body, we have an obligation to wait until all relevant information is available. In the case of Mr. Pryor’s nomination, there are vitally important outstanding questions regarding his ethical fitness to serve. There was a bipartisan investigation that could have settled these questions once and for all. But in order to shield this nomination from legitimate questions, the chairman of the Senate Judiciary Committee, should he wish, can shut the investigation down. Then, in clear violation of the committee’s rules, he pushed the nomination out of committee and onto the Senate floor. In the process, the chairman has not only allowed a cloud to hang above Mr. Pryor’s nomination out of committee and onto the Senate floor. In the process, the chairman has not only allowed a cloud to hang above Mr. Pryor’s nomination out of committee and onto the Senate floor. In the process, the chairman has not only allowed a cloud to hang above Mr. Pryor’s nomination out of committee and onto the Senate floor.

This line of attack has resuscitated a profoundly un-American idea. The charge that our opposition to Mr. Pryor is rooted in bigotry is repugnant and divisive. This is an egregious misuse of religion for professed political purposes. All Americans should be offended by this charge and disappointed that the discourse has degraded to such an extent. These are slanderous charges, and they have no place in this debate.

But in its time Democrats have risen to oppose cloture on a judicial nomination, the majority’s attacks against us have grown more vehement and abrative. We can’t control that. But we can control our response. Each Member of the Senate has the fundamental right to speak, to ask questions once and for all. But in order to shield this nomination from legitimate questions, the chairman of the Senate Judiciary Committee, should he wish, can shut the investigation down. Then, in clear violation of the committee’s rules, he pushed the nomination out of committee and onto the Senate floor. In the process, the chairman has not only allowed a cloud to hang above Mr. Pryor’s nomination out of committee and onto the Senate floor.

Esteem for the Federal bench, and the Judiciary Committee, should prevent such questions from going unanswered. And I would hope that my colleagues would share that view. This is a body of rules. And this is a country of laws. I cannot imagine that there is ever a time that any one of us ought to be in a position to say the rules in this case are simply not going to apply. But that is precisely what was done by the chairman of the Judiciary Committee, the chairman of the committee which passes judgment on those who will interpret the rule of law. Members of the committee called attention to this extraordinary development with grave concern about its implications, about measures that could be taken to prevent it. After assurances by the majority leader that this would not occur, this nomination has nonetheless made it to the floor. We should not reward this disregard for the rules of the Senate by permitting the nomination to go forward.

Amazingly, this is not the ugliest aspect of this debate. Because we have expressed our opposition to Mr. Pryor, Democrats have been accused of anti-Catholic bigotry. Of course, nothing could be further from the truth. I am proud of my Catholic faith. That pride is shared by many members of our caucuses, including my own. When listening to our parents or grandparents tell stories of seeing signs that said No Catholics Need Apply on storefront windows. In 1960, the Democratic nominee for President, John Kennedy, faced questions regarding whether a Catholic could be sufficiently independent of church doctrine in order to serve his country. John Kennedy put those questions to rest and a generation of Catholics have been able to serve their country without being forced to justify their loyalty or patriotism.

The charge that our opposition to Mr. Pryor is rooted in bigotry is repugnant and divisive. This is an egregious misuse of religion for professed political purposes. All Americans should be offended by this charge and disappointed that the discourse has degraded to such an extent. These are slanderous charges, and they have no place in this body.

Mr. LEVIT. Mr. President, as I have mentioned a few times over the last few days, and as anyone watching the horrible display here on the floor last night knows, those opposing the confirmation of William Pryor to the Eleventh Circuit Court of Appeals, objected to a despicable smear. Supporters of the nomination have turned reality on its head. They accuse us of imposing a religious test, but it was a Republican supporter of the nomination who was the only Senator to ask Mr. Pryor what his religion was and to use what they now term a code phrase “deeply held religious beliefs.”

The scurrilous accusations against opponents of the nomination must be answered. As a offen in charge of defending the White House. It has been echoed in recent days by the Committee for Justice, a group closely associated with the President and his family, headed by the first President Bush’s White House counsel, I know about the bias against immigrants and against Catholics. That was real discrimination. What is being spread this week is a falsehood uttered for partisan political purposes. Those who know what real religious discrimination is know that Pryor’s opposition to his Catholic beliefs, rather than his views as expressed in his prolific legal writings and speeches and his answers to questions at his Judiciary Committee confirmation hearings, needlessly and wrongly injects religion into the Senate’s “advise and consent” role in the nomination process. I could not agree more. I appreciate that the ADL has added its voice to those trying to show the Committee for Justice (CFJ) that harshly criticizes opponents of judicial nominee William Pryor for “playing politics with religion.” These misleading ads claim that “some in the U.S. Senate are attacking Bill Pryor for having ‘deeply held’ Catholic beliefs to prevent him from becoming a federal judge” and graphically illustrate the assertion with a picture of a sign hanging on the door to “Judicial Chambers” that reads, “Catholics need not apply.” We are unaware of any Senator who has attacked Mr. Pryor for his “deeply held Catholic beliefs.” To promote the view that Mr. Pryor’s opponents object to his Catholic religious beliefs, rather than his views as expressed in his prolific legal writings and speeches and his answers to questions at his Judiciary Committee confirmation hearings, needlessly and wrongly injects religion into the Senate’s “advise and consent” role in the nomination process. ADL does not as a practice endorse or oppose nominees to the bench. However, because Mr. Pryor has spoken so piously and so forcefully as an advocate on a number of issues, we believe he is entitled to comment by the Senate. Our objection is to this inflammatory stem from Mr. Pryor’s well-documented views, not his religious beliefs.

I believe the CFJ’s advertising campaign is misleading and inflammatory. We urge you to reconsider further promotion of this effort.

Sincerely,

GLEN A. TOBIAS, National Chairman,
ABRAHAM H. FOXMAN, National Director.

Mr. LEVIN. Mr. President, I oppose the nomination of William Pryor to the Eleventh Circuit Court of Appeals. Mr. Pryor holds extreme views on a range of issues, has engaged in inflammatory rhetoric when expressing those views,
and has exhibited a questionable commitment to separating politics from the law.

Mr. Pryor has led Alabama’s efforts to challenge Federal power and argue that the State should be immune from federal law. He has filed briefs challenging Congress’ authority to enact parts of the Family and Medical Leave Act; he has argued against Congress’ authority to protect disabled people from discrimination; and during Mr. Pryor’s tenure as attorney general, Alabama has openly shown disdain and indeed personally attacked individual justices. For instance, he stated, “I will end my prayer for the next administration: Please God, no more Souters.”

There are just too many indications that Mr. Pryor would be unable to separate his politics from the law. Just listen to what former Republican Arizona Attorney General Grant Woods said about Mr. Pryor. Mr. Woods described Pryor as “probably the most doctrinaire and the most partisan of any attorney general [he had] dealt with in eight years, so people would be wise to question whether or not [Pryor] is the right person to be non-partisan on the bench.”

The majority brought this nomination to the floor and immediately filed a cloture petition, not allowing for adequate debate on Mr. Pryor’s controversial nomination. I think that is wrong. wrongly for our federal courts. And wrong for the country. For these reasons, I oppose cloture on Mr. Pryor’s nomination.

Mr. KOHL. Mr. President, yesterday we voted on a motion to invoke cloture on the nomination of William Pryor to be a judge on the Eleventh Circuit Court of Appeals. After careful consideration of his candidacy, I had no choice but to oppose his confirmation in the Judiciary Committee last week and opposed cloture on his nomination as well.

When considering a nominee to a Federal court judgeship, we consider the nominee’s legal skills, judgment, reputation, and acumen. The nominee should be learned in the law. And the nominee should be well regarded among his peers in his or her community. Perhaps most important of all is the nominee’s judicial temperament.

An appeals court judge’s solemn duty and paramount obligation is to do justice fairly, impartially, and without favor. An appeals court judge should be open minded, must be willing to set his or her personal preferences aside, and must be able to judge without pre-disposition. And, of course, he or she must follow controlling precedent faithfully, and be able to disregard completely any views he or she holds to the contrary.

In the case of Attorney General Pryor, we are presented with a nominee whose views are so extreme that he fails this basic test. In case after case, and on issue after issue, Attorney General Pryor has a public record of taking the most extreme views, often at odds with controlling Supreme Court precedent, and in the most hard-line and inflexible manner.

Pryor’s views are outside of the mainstream on issues affecting civil rights, women’s rights, disability rights, religious freedom, and the right to privacy. He assures us that despite these views, he will follow settled law and Supreme Court precedent. After making extreme statements to the committee and in his hearing and refusals of his positions that he has taken throughout his career, he wants us to believe that he will blindly follow the law as a judge.

Let me make clear that the mere fact that Attorney General Pryor opposes abortion is not the reason I oppose him today. I have voted to confirm literally hundreds of judges, nominees who have both supported and opposed abortion. It is not Attorney General Pryor’s views on whether or not he believes legal abortion is good public policy which concern me. Instead, the crucial issue is whether Attorney General Pryor can put his personal views aside and apply the law of the land as decided by the Supreme Court. It is my conclusion that he cannot.

His inability to set his personal views aside has been demonstrated most explicitly in his activist attempts to challenge numerous federal statutes. He has chosen to expand on his views of federal law and challenge the ability of the Federal Government to remedy discriminatory practices. Many of the cases in which he took his most extreme legal positions were on behalf of the State of Alabama where he had the sole decision under state law as to what legal position to assert. These cases include his assertion of federalism claims to defeat provisions of the Age Discrimination in Employment Act and the Americans with Disabilities Act; his opposition to Congress’s authority to provide victims of gender-motivated violence to sue their attackers in federal court; his argument that Congress exceeding its authority in passing the Family and Medical Leave Act; and many other cases. The extreme legal positions advanced in these cases were fully and entirely the responsibility of Attorney General Pryor.

Of course, Attorney General Pryor has every right to hold his views, whether we agree with him or not. He can run for office and serve in the legislative or executive branches should he convince a majority of his fellow Alabamans that he is fit to represent them. But he has no right to be a Federal appeals court judge. Only those who we are convinced are impartial, unbiased, fair, and whose only guiding ideology is to follow the Constitution and apply the law equally to all are fit for this position. Unfortunately, we can have no confidence that he will set these views aside and faithfully follow the Constitution and binding precedent.

For these reasons, I must oppose his confirmation.

I would be remiss if I did not address briefly—for a brief remark is all this point is worth—the destrucive charges that those of us who oppose Mr. Pryor are anti-Catholic. The people who have put forward this charge engage in the worst form of personal destruction. These allegations are beneath the dignity of the process and the Senate and must be rejected by everyone involved.

One last point. The Senate Judiciary Committee began an investigation into statements made by the nominee before this committee. Unfortunately, the investigation was not completed, so I am not ready at this time to judge whether Mr. Pryor lied to the Senate Judiciary Committee at his hearing with regard to his involvement in fund-raising activities. This investigation involves very serious matters and must be allowed to proceed.

I will vote no.

Mrs. FEINSTEIN. Mr. President, I took the floor last night to speak about the nomination, which I oppose, and the unfortunate circumstances surrounding that nomination, and since that time certain of my colleagues on the other side of the aisle have chosen to mischaracterize my statements and perpetuate the unfair and baseless charges I was trying to debunk.

I want to briefly correct the record on two of these mischaracterizations, because I believe very strongly that these types of wrongful allegations should not be allowed to stand.

First, the junior Senator from Pennsylvania stated that anyone who questioned Mr. Pryor’s “deeply held beliefs” would be questioning his religious beliefs. Specifically, he said: I just suggest that it is obvious to anyone that this code word is an anti-racially bias.

Senator Durbin attempted to correct the record immediately but was not allowed to do so until very late. I appreciate his efforts in that regard, but I think I should also set the record straight myself.

First, what I said in my statement was clearly not a religious attack. I said, and I quote: Many of us have concerns about nominees sent to the Senate who feel so very strongly, and sometimes stridently, and often intemperately about certain political beliefs and who make intemperate statements about those beliefs. So we raise questions about whether those nominees can be truly impartial. Particularly when the law conflicts with those beliefs.

So Mr. President, I was very careful to raise this concern about deeply held
political beliefs, not religious beliefs. And my concern is not just the beliefs themselves but the manner in which they are expressed. I have found that intemperate statements often accompany intemperate people.

Indeed, I went on to say that, and again I quote:

"It is true that abortion rights can often be at the center of these questions. As a result, accusations have been leveled that any time reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice. But pro-choice is not this committee's view; we voted for many nominees who are anti-choice and who believe that abortion should be illegal, some of whom may even have been Catholics. I do not know because I have never inquired.

So this truly is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. I think when a nominee such as William Pryor makes inflammatory statements and evidence such strongly held beliefs on a whole variety of core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge—particularly because he is very young, 41; particularly because this is a lifetime appointment; and particularly because we have seen so many people who have received lifetime appointments then go on and do just what they want, regardless of what they said. So it is of some concern to us.

That is what I said. I did not attack Mr. Pryor's religion. Nobody in this debate has. I did not attack his religious beliefs. Nobody in this Senate has.

To accuse anyone in this body of using an anti-Catholic litmus test is inaccurate, and wrong. It is ill-advised, and it risks bringing us back to a day where religion and race and gender debates split this Nation apart at its seams.

The judicial nominations process is a serious one and filled with countless debates. The slate should focus on what is important and real, not on what can inflame political supporters.

The second mischaracterization of my statement was by the junior Senator from Alabama. I know he feels very strongly about this nominee, so I do not blame him for fighting hard for Mr. Pryor.

Nevertheless, the junior Senator from Alabama did not accurately portray what I said in my statement. Specifically, the Senator said that I claimed Mr. Pryor had "used his power as attorney general to obstruct the enforcement of the Violence Against Women Act in Alabama." I know he feels very strongly about this nominee, so I do not blame him for fighting hard for Mr. Pryor.

Mr. Pryor used his position as attorney general to limit the scope of crucial civil rights laws like the Violence Against Women's Act, VAWA, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Fair Labor Standards Act, and the Family Medical Leave Act. . . . For example, he was the only attorney general to argue against a key provision in the Violence Against Women Act on federalism grounds.

Now in retrospect, I should have been more careful in the wording of my statement, and for that I am sorry. I said that Mr. Pryor "used his position as attorney general to limit the scope of crucial civil rights laws . . . " rather than saying what I meant to say, which was that he argued for limiting the scope of those laws—sometimes successfully—in briefs before the Federal courts.

But I certainly never said that he used his power to "obstruct" the law in Alabama.

Some other comments have been made throughout this debate that mischaracterize the Democratic opposition to this nominee and in many instances, or at least imply, that our opposition is based on religion.

I will say once again, this is simply not true.

I hope, as I said yesterday, that this debate can focus on what it should focus on, the qualifications of this nominee. That focus should not have been lost through a violation of the committee rules, the thwarting of an ongoing investigation into the nominee, or these false charges of religious bias.

---

**TRIBUTE TO DR. THOMAS D. CLARK**

Mr. McCONNEL. Mr. President, I rise today to pay tribute to a legend, Kentucky's Historian Laureate Dr. Thomas D. Clark. On July 14, 2003, Dr. Clark turned 100 years old.

Dr. Clark has been described as a "state's historian" and a "voice of Mississipi." Dr. Clark stumbled upon Kentucky as he sought to further his education. He earned a scholarship to the University of Kentucky where he received a master's in history in 1929. Dr. Clark turned 100 years old.

Dr. Clark has been described as a "state's historian" and a "voice of Kentucky." He has received many awards and honors, including the University of Kentucky Library Medallion for Intellectual Achievement and the Commonwealth Historian Laureate for life. Dr. Clark has been described as a "true Kentucky style, Dr. Clark retired from the Commonwealth and began researching its rich past. He has written more than 32 books including, "A History in Kentucky," and served in the University of Kentucky's Department of History for nearly a quarter of a century. One of the State's leading scholars, he proudly calls Kentucky home.

Dr. Clark's service to his great State has not gone unnoticed or unappreciated. In 1969, the University of Kentucky presented Dr. Clark with an honorary doctorate for the way he touched so many Kentuckians during his career. Over his 100 years, he has received many awards and honors, including the University of Kentucky Library Medallion for Intellectual Achievement and the Commonwealth Historian Laureate for life. Dr. Clark has been described as the "Father of Medicare."

Kentuckians admire Dr. Clark for his patriotism to the State, his adept knowledge of its history, and most importantly, his zest for life. I ask my colleagues to join me in honoring Dr. Clark and congratulating him on his Centenarian status.

---

**HONORING THE LIFE OF SENATOR VANCE HARTKE**

Mr. BAYH. Mr. President, I rise today to honor the life of my fellow Hoosier, Senator Vance Hartke, who passed away on July 27. Senator Hartke dedicated his life to serving his country and our home State of Indiana, setting an example of dedication and political courage throughout his 18 years as senator.

Born on May 31, 1919, Vance Hartke grew up in Stendal, IN. He attended the University of Evansville and then earned his law degree from Indiana University. Senator Hartke served 4 years as a member of the Coast Guard and as a U.S. Navy officer during World War II. Upon his return to Indiana, Hartke began practicing law in Evansville, where he was elected mayor in 1955. From there, he was elected Senator in 1958, demonstrating a work ethic on the campaign trail that is remembered by Hoosiers still today. Senator Hartke served three continuous terms, the first Indiana Democrat ever to do so.

While serving as Senator, Hartke played a crucial role in requiring auto manufacturers to install seatbelts in their cars, and supported legislation that created the Head Start Program, which continues to provide early education opportunities for tens of millions of children from lower-income families. He led Senate support for Medicare, work that earned him the nickname "Father of Medicare." Senator Hartke also was instrumental in creating the International Executive Service Corps, an organization modeled on the Peace Corps that sent retired U.S. business executives to developing countries to help expand their local businesses.

During a particularly trying time in our nation's history, Senator Hartke remained unafraid to take a bold stance in support of his convictions, sometimes in the face of strong opposition. He chose to speak out against the Vietnam war, knowing that doing so would cost him his friendship with President Lyndon Johnson, because Senator Hartke felt it was his moral responsibility to defend his beliefs. However, of the many issues Senator Hartke supported during his 18 years as Senator, family members recall that one of his proudest accomplishments was his work on legislation that provided Medicare for kidney diseases. It was work that was largely overshadowed by his personal stances on other issues, but it led to the creation of a bill now credited with saving more than 500,000 lives.

The sense of loss to all those who knew Senator Hartke is tremendous. He is survived by his wife of 60 years, Martha, four sons, three daughters, and 16 grandchildren.

**HONORING OUR ARMED FORCES**

Mr. BAYH. Mr. President, I rise today to honor the accomplishments of
the Hoosier soldiers of the 1st Battalion, 293rd Infantry from the Indiana National Guard, who have become the first National Guard battalion in the Nation to receive the Combat Infantry award since World War II. The Combat Infantry award is a highly coveted honor given by the Department of the Army to soldiers who have satisfactorily performed infantry duties as part of a unit that participated in ground combat. The Infantry badge honors soldiers who have operated under fire conditions, yet still successfully performed his or her mission in a combat environment. In addition, medics who supported the soldiers will receive the Combat Medical Badge. I am immensely proud that it is an Indiana battalion that has become the first unit in more than 50 years to earn this distinction.

All members of the battalion will receive the Combat Infantry award as a symbol of our Nation’s gratitude for the bravery they demonstrated and the sacrifices they and their families have made during Operation Iraqi Freedom. The 1st Battalion, 293rd Infantry is the first Indiana National Guard unit to go into combat since the Korean War. As this award recognizes, they have made an exemplary return to battle, honoring themselves and their home State of Indiana through their efforts.

The battalion has been stationed in Iraq for nearly 7 months. During their time in Iraq, the soldiers of the 1st Battalion, 293rd Infantry have provided security for the Talli Air Force Base, a key airstrip in Southern Iraq. The unit took over responsibility for the base just days after the war’s deadliest battle took place on April 1 too secure control of the airstrip. I am proud to honor the soldiers of the 1st Battalion, 293rd Infantry. The thoughts and prayers of all Hoosiers are with them as they continue their thoughts and prayers of all Hoosiers.

Mr. President, I also rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Peru, IN. Private Robert McKinley died in Iraq on July 31, 2003. His family and friends have made an inspiring return to battle, honoring themselves and their home State of Indiana through their efforts.

Robert was the 12th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join the State of Connecticut in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Robert, a memory that will burn brightly during these continuing days of conflict and grief.

Before leaving to fight in Iraq, Robert McKinley promised his grandfather he would be careful, telling him that if there was anything he could do to make our country better, then he wanted to do it. Robert had only been in the United States for a month but had already seen three tours of duty and was serving in the 101st Airborne Division, a unit which played a crucial role in the actions in Iraq.

Robert was born in Peru, IN. He enjoyed fishing for walleye in Canada with his grandfather and participated in Peru’s 4-H Club for 10 years. Robert graduated from Peru High School in May 1998. His family says the military provided him with an essential sense of direction. Robert leaves behind his mother, Deborah McKinley, his sister, Kay, and his grandparents, Robert and Pauline Feller.

As I search for words to do justice in honoring Robert McKinley’s sacrifice, I am reminded of President Lincoln’s remarks as he addressed the families of the fallen soldiers at Gettysburg: “We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.” This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Robert McKinley’s actions will live on for far longer than any record of these words.

It is my sad duty to enter the name of Robert McKinley in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Robert’s can find comfort in the words of the prophet Isaiah who said, “He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.”

May God grant strength and peace to those who mourn, and may God bless the United States of America.

HONORING PRIVATE ROBERT MCKINLEY

Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Peru, IN. Private Robert McKinley died in Iraq on July 31, 2003. His family and friends have made an inspiring return to battle, honoring themselves and their home State of Indiana through their efforts.

Robert was the 12th Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join the State of Connecticut in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Robert, a memory that will burn brightly during these continuing days of conflict and grief.

Before leaving to fight in Iraq, Robert McKinley promised his grandfather he would be careful, telling him that if there was anything he could do to make our country better, then he wanted to do it. Robert had only been in the United States for a month but had already seen three tours of duty and was serving in the 101st Airborne Division, a unit which played a crucial role in the actions in Iraq.

Robert was born in Peru, IN. He enjoyed fishing for walleye in Canada with his grandfather and participated in Peru’s 4-H Club for 10 years. Robert graduated from Peru High School in May 1998. His family says the military provided him with an essential sense of direction. Robert leaves behind his mother, Deborah McKinley, his sister, Kay, and his grandparents, Robert and Pauline Feller.

As I search for words to do justice in honoring Robert McKinley’s sacrifice, I am reminded of President Lincoln’s remarks as he addressed the families of the fallen soldiers at Gettysburg: “We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.” This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Robert McKinley’s actions will live on for far longer than any record of these words.

It is my sad duty to enter the name of Robert McKinley in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Robert’s can find comfort in the words of the prophet Isaiah who said, “He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.”

May God grant strength and peace to those who mourn, and may God bless the United States of America.

TRIBUTE TO PFC. WILFREDO PEREZ, JR.

Mr. DODD. Mr. President, I rise today to honor a great American from the Commonwealth of Kentucky. After 25 years of dedicated service to our country, Captain Dudley B. Berthold of the United States Navy will retire on August 8 of this year. I would like to take a moment to recognize his accomplishments.

Mr. McConnell. Mr. President, today I honor a great American from the Commonwealth of Kentucky. After 25 years of dedicated service to our country, Captain Dudley B. Berthold of the United States Navy will retire on August 8 of this year. I would like to take a moment to recognize his accomplishments.
Judge Berthold is the son of retired USAR, Brigadier General Julius J. Berthold. I am pleased to say he attended the University of Louisville as an NROTC Midshipman and graduated in 1978. Upon graduation he was commissioned as a Second Lieutenant in the US Navy, and shortly after completing Surface Warfare Officer School he reported to his first assignment on board the USS O'Bannon, DD 987, serving first as Auxiliary Officer and then as the Main Propulsion Assistant. He was selected for the Nuclear Prototype Propulsion Plant Training School in Orlando, FL, and the Nuclear Naval Nuclear Power Engineering. He was selected for the graduate School of Monterey, CA, and Surface Warfare Officer School he returned to in 1978. Upon graduation he was commissioned the University of Louisville as a Second Lieutenant in the US Navy. He has served as the Electrical Officer, to the shores of Virginia where, in 1989, he was assigned as the Aircraft Carrier New Construction Principle Assistant Project Officer on the staff of the Supervisor of Shipbuilding at Newport News. Here, he assisted in the planning and execution of the construction, test & trials, and delivery of the USS George Washington. Later he oversaw the delivery of both the USS Harry S Truman, CVN 75, and the USS Ronald Reagan, CVN 76.

Most recently, Captain Berthold served as Program Manager for the Allegiance Future aircraft carrier programs at the Navy’s Program Executive Office for Aircraft Carriers in Newport News, VA. He has played a key role in developing new and innovative acquisition strategies for the design and construction of the final Nimitz Class Aircraft Carrier. During his tenure he was assigned to the new CVN 21 class. This new class of aircraft carrier design sets a new standard for war-fighting capability and will influence the readiness of our military throughout the 21st century.

Captain Berthold has earned a great number of personal decorations, including the Meritorious Service Medal with three Gold Stars, the Navy Commendation Medal with one Gold Star, and the Navy and Marine Corps Commendation Medal. I am proud to represent such a fine Kentuckian in the U.S. Senate, and I thank him for his dedication to the people of the United States. His list of accomplishments is great, yet being the son of retired USAR, Brigadier General Berthold, whom I consider to be a close personal friend and wonderful role model, certainly ranks high on that list. While the Navy will lose a loyal seaman, his wife, Deborah Lynn, and two children, Bryant and Bridgette, will welcome him home with open arms. I wish Captain Dudley B. Berthold the traditional naval wish of “Fair winds and Following seas” as his military career comes to an end. And I congratulate him on his retirement.

NOMINATION OF CAROLYN KUHL

Mr. LEAHY. Mr. President, the Republican leadership’s actions this week were an attempt to create the impression that Senate Democrats are stalling judicial nominations. Rather than work with us to confirm the five consensus judicial nominations that have been before the Senate and available for action all week, the Republican leadership has chosen to schedule cloture vote after cloture vote on the most divisive, controversial and extreme of this President’s judicial nominations.

Senators have spoken to the contentious nominations Republicans have tried to force through the Senate confirmation process this week. This is a striking difference from the days in which more than 60 of President Clinton’s judicial nominees were stalled and defeated by anonymous holds and secret objections. Just as I made judicial Committee blue slips and the process by which the committee considers nominees with home-State Senators in reprimand when I chaired the Committee in 2001, Democratic Senators have not opposed nominees without coming before the Senate and making known their concerns.

During the 17 months a Democratic Senate majority reviewed this President’s judicial nominees we were able to confirm 100 judges. This year, we have cooperated in the confirmation of 45 additional judges. The total confirmations already number 145. We have worked in good faith to reduce judicial vacancies to the lowest level in the last 13 years and to increase the full-time judge on the Federal bench across the country to the highest number in our history. We continue to work to reduce its current 90 day backlog. As Democratic Senators on the Judiciary Committee have joined in reporting at least a dozen additional judicial nominations favorably to the Senate. Working together, the Republican and Democratic leadership will be able to schedule debate and votes on those judges.

There are other nominees I frankly do not support and that large numbers of Senators do not support. And yet, as chairmen, I did something our Republican predecessors failed to do. I proceeded for judicial nominations I opposed. Some were confirmed; a few have been so extreme and controversial that they have not been confirmed. Ours is a good record and a fair record.

It is a record that shows we have sought, as Senator Baucus explained recently, to protect the essential independence of the judiciary, to support fair-minded impartial judges, and to protect the essential rights of all Americans.

This week we have witnessed a number of unsuccessful cloture petitions. When the Republicans filed these petitions they knew they would be unsuccessful. The Republican leadership was nonetheless insistent on diverting hours from debate on the Energy bill in order to create partisan talking points. This is another example of how this administration and its aides here in the Senate are using judicial nominations for partisan purposes. That is most unfortunate.

Republican partisans have changed the practices and rules of the Senate that have helped over time to encourage the White House to work with home-State Senators and to consult with both sides of the aisle in the Senate. When judicial nominations were being made by a Democratic President, the objection of a single home-State Senator would have prevented any action on a judicial nomination. As the chairman of the Judiciary Committee acknowledged in 1999, under the practices of the committee, no nomination opposed by both home-State Senators would proceed. Yet now that the President Republican Senators are Democrats, the rules are changed and traditional practices are conveniently abandoned.

The big picture is that we have made coordination across the aisle a recent history. His administration is committed to a plan to pack the Federal courts with nominees of a narrow judicial ideology. Compounding the situation, the Republican leadership in the Senate has decided that the administration in this effort at all costs. Longstanding Senate practices and rules have been broken. Home-State Senators are being ignored or overridden if they are Democratic Senators, committee rules are being breached, committee practices of the last 25 years are being ignored in a rush to steamroll the Senate.

Sadly, the most partisans have made detestable arguments and injected religion into the debate. Regrettably, the Senate under its current leadership has abandoned its constitutional role as a check on the Executive. So we have the most aggressive Administration in recent history and its efforts to pack the courts are being facilitated by efforts of the Republican Senate majority and its willingness to remove all the processes and practices that had been available to the Senate to provide a check and balance. As they remove the mechanisms that had traditionally provided incentives for the Executive to consult with the Senate, the administration has refused to moderate its actions. Instead, Republican partisans have ratcheted up the points of contention and conflict. Rather than work in a bipartisan way to unite the country and maintain a balanced and independent federal judiciary, Republicans insist on the expedited confirmation of every nomination no matter how extreme. With all the traditional screening mechanisms removed, our one Senate procedure is left—the filibuster. All their talk about supposed obstructionism is just that, partisan talking.
points. The factors that have led to more fillbusters than usual this week have been the actions of the administration and Senate Republicans. These matters need not be contentious. The process starts with the President. If this administration worked with us, it could avoid these situations. We have and will continue to work with the administration. We would like to be more helpful in the President’s identification of nominees and advising him on the selection of consensuses. So that we could work together in adding those confirmations to the 145 so far achieved.

GEORGE J. MITCHELL SCHOLARSHIP PROGRAM AND U.S.-IRISH RELATIONS

Mr. KENNEDY. Mr. President, yesterday’s New York Times carried a very interesting article about a new scholarship program created three years ago to give young Americans the opportunity to pursue study in Ireland and learn more about that country and its long-standing ties of history and heritage to the United States. The program is called the George J. Mitchell Scholarship Program. This name honors our former Senate Majority Leader George Mitchell, who is especially admired in Ireland and among Irish Americans and even in Great Britain for his leading role in recent years in advancing the peace process in Northern Ireland. The scholarships were created by the U.S.-Ireland Alliance, a non-partisan, non-profit organization founded in 1998 by my former foreign policy adviser, Trina Vargo, who is well known to many of us in Congress for her outstanding work in Irish issues. As many of our colleagues in the Senate and the House know, the Alliance has worked closely with both Republicans and Democrats in Congress to strengthen the relationship between the United States and Ireland.

The twelve Mitchell Scholars selected each year are outstanding young American students who are gifted academically, and who show promise for future leadership in the public or private sectors in maintaining close ties between the United States and Ireland. I commend Ms. Vargo and the U.S.-Ireland Alliance for the prestige and popularity the scholarships have earned so quickly, and I ask unanimous consent that the New York Times article may be printed in the RECORD.

MITCHELL SCHOLARS DELVE INTO IRISH CULTURE, TOO

(By Brian Lavery)

Dublin, July 29—When Emily Mark arrived in Dublin to study art history at Trinity College, she postponed worrying about classes until she found a traditional musician to teach her the Irish style of playing five-string claw-hammer banjo.

This month, Ms. Mark completed a Mitchell Scholarship, a program that often sounds more like a cultural immersion course than the pursuit of a master’s degree. Named in honor of former Senator George J. Mitchell for his role in the Northern Irish peace process, the scholarship’s explicit objective is to increase U.S. involvement in the idea of internships or entrepreneurial volunteer work. With her professor at Trinity College, Ms. Mark was inspired to create a separate career path for herself in Ireland. With her professor at Trinity College, Ms. Mark was inspired to create a separate career path for herself in Ireland.

To that end, Irish-American applicants have no advantage in the competition for the 12 positions held by Trina Vargo, and the Mitchells are financed by groups that may stand to benefit from the warm feelings of Americans. In 1998, the year the program ended, the Mitchell Scholarship paid $4,500 for an initial endowment, while sponsors include the British government and some of the largest corporations in Ireland. (Nine major Irish universities and companies that were involved in the peace process or represent the country, visiting one another at their universities almost once a month, and some traveled together to Scotland. Also through Ms. Vargo, they went on a hiking trip in the Wicklow Mountains guided by a Dublin businessman, and they celebrated Thanksgiving together at a lawyer’s Dublin home.

While there is no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 30, 2003]

MITCHELL SCHOLARS DELVE INTO IRISH CULTURE, TOO

(By Brian Lavery)

Dublin, July 29—When Emily Mark arrived in Dublin to study art history at Trinity College, she postponed worrying about classes until she found a traditional musician to teach her the Irish style of playing five-string claw-hammer banjo.

This month, Ms. Mark completed a Mitchell Scholarship, a program that often sounds more like a cultural immersion course than the pursuit of a master’s degree. Named in honor of former Senator George J. Mitchell for his role in the Northern Irish peace process, the scholarship’s explicit objective is to increase U.S. involvement in the idea of internships or entrepreneurial volunteer work. With her professor at Trinity College, Ms. Mark was inspired to create a separate career path for herself in Ireland. With her professor at Trinity College, Ms. Mark was inspired to create a separate career path for herself in Ireland.

To that end, Irish-American applicants have no advantage in the competition for the 12 positions held by Trina Vargo, and the Mitchells are financed by groups that may stand to benefit from the warm feelings of Americans. In 1998, the year the program ended, the Mitchell Scholarship paid $4,500 for an initial endowment, while sponsors include the British government and some of the largest corporations in Ireland. (Nine major Irish universities and companies that were involved in the peace process or represent the country, visiting one another at their universities almost once a month, and some traveled together to Scotland. Also through Ms. Vargo, they went on a hiking trip in the Wicklow Mountains guided by a Dublin businessman, and they celebrated Thanksgiving together at a lawyer’s Dublin home.

While there is no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 30, 2003]
 wants them to become good-will ambassadors for Ireland. Rather than balk at the responsibility, they say that emotional and intellectual links are exactly what they expect to obtain here.

"I didn’t feel pressure that I ultimately need to do some great work for Ireland," said Jannie Huh, a West Point graduate who studied at Trinity College.

"But I definitely do feel that over the course of the year I have built a spot in my heart for the country and the people. I think that’s just indescribable."

Most Mitchell scholars try to blend into Irish society by complementing their studies with part-time jobs and community work. Ms. Vargo, who was 23 and lived in Carrickfergus, Northern Ireland, over the last year, withdrew her application after learning that her place, if she won, would not be awarded to an alternate candidate if she decided to "bow out" of the competition. That, she said, "wouldn’t be right, because I would be taking it away from someone else."

The application process is intended to be friendly, with written essays and interviews that focus on identity and personality instead of academic detail, Ms. Vargo said. Those who are accepted are encouraged to wait until they hear from other scholarship programs before deciding which to choose.

"You want them to have a reason to be here, and a really good understanding of why they’re here," Ms. Vargo said.

Ms. Vargo, a former foreign policy adviser to Senator Edward M. Kennedy, knows Irish business and political circles well, and Mitchell scholars often use her network of connections. Last year, she introduced Mark Tosso to the top official in the prime minister’s office, who hired him as a consultant and introduced him to people throughout the Irish government.

"They had this project which was put together last year to try to mobilize some money to take charge of it," Mr. Tosso said.

In the same way, Ms. Mark, the banjo player, met a Dublin lawyer who hired her to help set up a new fund-raising arm for Amnestiy International. "Everyone just bowls themselves over to help you," she said. "As soon as you express an interest in something, they’re on it."

The scholars also improvised when they found Irish culture less familiar with the focus on identity and personality in American society. About one short essay and interview questions, they went on a hiking trip in the Wicklow Mountains guided by a Dublin busi-

nessman, and they celebrated Thanksgiving at a lawyer’s Dublin home. To use their own term, they bonded. They share an easy rapport (Ms. Mark called the group "the world’s perfect dinner party") whether milling about at the program’s clos-

ing ceremony or discussing leaders like Senator Mitchell and Sinn Fein’s president, Gerry Adams, or holding up the bar at the Europa Hotel.

The program’s sponsors seem to feel that even that bar tab is money well spent. Gerry McCrory, 40, heads a venture capital fund in Dublin called Cross Atlantic Capital Partn-

ers, and knows about $30,000 a year for Mitchell scholars.

"It’s going to be at least another 20 or 30 years until they’re in a position to make those decisions," he said, "but I think it’s an essential thing to do. It’s a long-term investment.

INTELLIGENCE REPORT

Mr. AKAKA. Mr. President, I rise today to commend the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence for their outstanding work in reviewing the intelligence community’s activities related to the terrorist attacks on September 11, 2001. The re-

port, which was issued jointly last week by two committees, is the cul-

mination of the hard work of the com-

mittees and their staff to inform the American people of the weaknesses in our intelligence community that need to be strengthened to prevent this type of event from occurring again.

One issue that I find particularly in-

teresting is the focus of the Intelli-

gence Committees’ report on how the lack of employees with foreign lan-

guage skills hampered the intelligence community’s efforts to meet its mis-

sion. Finding Six of the report states:

Prior to September 11, the Intelligence Community was unable to handle the challenge it faced in translating the volumes of foreign language counterterrorism intel-

gence it collected. Agencies within the In-

telligence Community experience backlogs in material awaiting translation, a shortage of language specialists and language-qualified field officers, and a readiness level of only one percent in most critical ter-

rorism-related languages used by terrorists.

This finding is not surprising. Short-

ly after the terrorist attacks of Sep-

tember 11, 2001, FBI Director Robert Mueller made a public plea for speak-

ers of Arabic and Farsi to help the FBI and National Security Agency trans-

late documents that were in U.S. pos-

session but which were left untranslated due to a shortage of em-

ployees with proficiency in those lan-

guages. The committees’ report states that prior to September 11, the Bu-

reau’s Arabic translators could not keep up with the workload. As a result, 35 percent of Arabic language materials derived from Foreign Intelligence Sur-

veillance Act, FISA, collection was not translated prior to December 31, 2001. A number of Arabicspeakers employed by the Bu-

reau remained at the same level, the projected backlog would rise to 41 per-

cent this year.

Unfortunately, the U.S. faces a critical shortage of language proficient professionals throughout Federal agen-

cies. As the General Accounting Office reports, Federal agencies have short-

ages in translators and interpreters and overall short-language proficiency levels needed to carry out agency missions. Further, Director of the CIA Language School has testified before the Intelligence Committees that, given the CIA’s language require-

ments, the CIA Directorate of Oper-

ations is not fully prepared to fight a world-wide war on terrorism and at the same time carry out its traditional agent recruitment and intelligence collection mission. The Director also added that there is no strategic plan in place with regard to linguistic skills at the Agency.

The inability of law enforcement offi-

cers, intelligence officers, scientists, military personnel, and other Federal employees to efficiently interpret infor-

mation from foreign sources, as well as interact with foreign nations, pre-

sents a threat to their mission and to the well-being of our Nation. It is cru-

cial that we work to strengthen the language capabilities of the United States as quickly as possible. Both the GAO review and the Intelligence Committees’ report demonstrate that action is needed to help Federal agen-

cies more effectively recruit and retain highly skilled individuals for national security positions.

Congress has long been aware of the Federal Government’s lack of skilled personnel with language proficiency. In 1958, the National Defense Education Act, NDEA, was passed in response to the Soviet Union’s first space launch. We were determined to win the space race and make certain that the United States never came up short again in the areas of math, science, technology, or foreign languages. The act provided loans and fellowships to students, and funds to universities to enhance their programs and purchase necessary equipment. After the NDEA expired in the early 1960s, Congress passed the Na-

tional Security Education Act in 1991, which created the National Security Education program, NSEP. This program was intended to address the lack of language expertise in the Federal Government by providing limited un-

dergraduate scholarships and graduate fellowships for students to study for-

eign language and foreign area studies, and providing funds to institutions of higher learning to develop faculty expertise in the less commonly taught languages. In turn, students who re-

ceive NSEP scholarships and fellow-

ships are required to work for an office or agency of the Federal Government in national security affairs.

While NSEP has been successful, it is obvious that more needs to be done. To address the Federal Government’s need for a larger pool of foreign language personnel, I intro-

I am pleased to have the support of Senators Durbin, Allen, Voinkovich, Warner, Brownback, Chambliss, Rockefeller, and Collins in this effort. Our bipartisan bill would enhance the Federal Government’s efforts to recruit and retain individuals possessing skills critical to preventing and maintaining national security. Through a targeted student loan repayment program and fellowships for graduate students, this legislation would help eliminate the Government’s shortfall in science, mathematics, and foreign language skills.

I am pleased to note that the Committee on Governmental Affairs favorably reported S. 589 in June. When this bill comes before the Senate for consideration, I urge swift passage so that Federal agencies with direct responsibility for protecting our homeland have personnel with foreign language and other necessary skills to deter and prevent another terrorist attack.

IRAQ AND AMERICAN FOREIGN POLICY

Mr. CARPER. Mr. President, I rise to call the Senate’s attention to a very important address that my distinguished senior colleague, the ranking member of the Foreign Relations Committee, delivered today on America’s foreign policy and our ongoing operation in Iraq. I commend Senator Biden for his wise and eloquent words, and I hope that all of my colleagues will take note of this insightful address.

Senator Biden delivered this address today to mark the one-year anniversary of the bipartisan hearings he held last year as chairman of the Foreign Relations Committee, in which the committee explored many of the very questions that are bedeviling us today in post-war Iraq. Those hearings raised, I believe, some of the questions we are confronted with today with respect to how many troops we will need to maintain in Iraq and for how long, as well as how much the reconstruction of Iraq will cost and how we can best secure our international cooperation to share the burdens of bringing peace and democracy to Iraq. Indeed, Chairman Biden said at the very first of those hearings last year, “We need a better understanding of what it would take to secure Iraq in order to go into Iraq economically and politically. It would be a tragedy if we removed a tyrant in Iraq, only to leave chaos in his wake.” One can only wish that the administration had paid more attention to the questions the committee raised and some of the warnings that the committee received from the distinguished witnesses that testified during those hearings.

Senator Biden’s speech today was an unapologetic defense of the decision to go to war in Iraq. “Anyone who can’t acknowledge the world is better off without [Saddam] is out of touch,” he said. “The cost of not acting against Saddam would have been much greater, and so is the cost of not finishing the job.” At the same time, Senator Biden’s speech today was also a ringing affirmation of the historical tradition of bipartisan foreign policy that has been the hallmark of this institution and of the Senate Foreign Relations Committee for particular. He suggests that today, and I quote, “the stakes are too high and the opportunities too great to conduct foreign policy at the extremes.”

In very convincing terms, Senator Biden argues that we need to chart a sensible path between the prescriptions of neo-conservative purists, who affirm a strident unilateralism, and multi-lateral purists, who shrink from forcefully acting in the absence of international consensus. Again I quote: “What we need isn’t the death of internationalism or the denial of stark national interest, but a more enlightened nationalism—one that understands the value of institutions but allows us to use military force, without apology or apprehension if we have to, but does not allow us to be so blinded by the overwhelming power of our armed forces that we fail to see the benefit of sharing the risks and the costs with others.”

As Senator Biden argues, we need to act forcefully, but humbly in the world today. We need to be unapologetic in the post-9/11 world about fighting for the security of our people. But we need to pursue our goals, as Thomas Jefferson once said, “humbly, with deference and respect to the opinions of mankind.” The course that Senator Biden outlined today is the course we should follow, Mr. President. Ultimately, I believe that most Americans will conclude that we were right to act in Iraq. We also need to see the job through. But we need to reengage with the international community and make them partners in the noble work of securing the peace in Iraq and spreading freedom and democracy throughout the region. Again, I commend Senator Biden’s address to my colleagues’ attention, and I ask unanimous consent that the full text of it be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

**The National Dialogue on Iraq + One Year**

*By Senator Joseph R. Biden, Jr., The Brookings Institute, July 31, 2003*

**Introduction: America’s Place in the World**

Most Americans don’t know what you and I know, that there, a war being waged in Washington to determine the direction of our foreign policy. It goes well beyond the ordinary skirmishes that are the stuff of politics and tactics. This war is philosophical. This war is strategic and its outcome will shape the first fifty years of the twenty-first century, just as the consensus behind containment shaped the mid-twentieth century. Right now, the neo-conservatives in this Administration are winning that war. They seem to have captured the heart and mind of the President, who is long on his views in foreign policy agenda. They put a premium on the use of unilateral power and have a set of basic prescriptions with which I fundamentally disagree. Just as I disagree with those in my own Party who have not yet faced the reality of the post-9/11 world, and believe we can only exercise power if we act multilaterally.

I don’t question the motives of either the neo-conservatives or the pure multilateralists. I believe that the world differs from what I do. Suffice it to say, in my view the neo-cons and the pure multilateralists are both wrong. What we need isn’t the death of internationalism or the denial of stark national interest, but a more enlightened nationalism—one that understands the value of institutions but allows us to use military force, without apology or apprehension if we have to, but does not allow us to be so blinded by the overwhelming power of our armed forces that we fail to see the benefit of sharing the risks and the costs with others.

In my view, the stakes are too high and the opportunities too great to conduct foreign policy at the extremes.

**One Year Ago**

Exactly one year ago today, when I was Chairman of the Foreign Relations Committee, we began a series of bipartisan hearings on America’s policy in Iraq. Our purpose was to start a national dialogue and give the American people an informed basis upon which to draw their own conclusions. At that time I said “President Bush has stated his determination to remove Saddam from power a view many in Congress share, and I was among them. I also said as clearly as I could “if [removing Saddam] is the course we pursue...it matters profoundly how we do it and what we do after we succeed.”

A year later, Saddam is no longer in power and that’s a good thing. His sons Ouyad and Qusay have been killed. That’s another good thing. They deserve their own special place in hell. But the mission is hardly accomplished. The new day in the Middle East has not yet dawned.

We’re still at war. American soldiers are still dying, one, two, three at a time. Iraq is still not secure. Still no one has told our troops that they’ll have to stay for a long time in large numbers; that they’ll have to go home. Most Americans don’t realize it’s costing us a billion dollars a week to keep our troops in Iraq, and billions more in reconstruction, and revenue from Iraqi oil will not cover these costs.

And we still haven’t heard a single clear statement from the President articulating what his policy is in force. Without using specifically, that securing Iraq will cost billions of dollars, require tens of thousands of American troops for a considerable amount of time, and that it’s worth it. And, most importantly, why it’s in our national interest to stay the course.

Some in my own Party have said it was a mistake to go into Iraq, and the benefit is not worth the cost. I believe they’re wrong. The cost of not acting against Saddam would have been much greater, and so is the cost of not finishing the job. The President is popular. The stakes are high. The need for leadership is great.

I wish he’d used some of his stored-up popularity to make what I admit is an unpopular case. I wish the President, instead of standing on an aircraft carrier in front of a banner that said “Mission Accomplished” we’d have had one that said “We’ve Only Just Begun.”

I wish he would stand in front of the American people and say “My fellow Americans, our troops have done their job in Iraq, but we have to stay in Iraq. We have to finish the job. If we don’t, the following will...
The truth is there's little intelligence to substantiate any of these claims. The truth is that these are not the sorts of threats that are in our intelligence community about each of these allegations. Yet the administration has refused to defend each of these allegations as accepted facts.

I believe the purpose was to create a sense of urgency, the sense of an imminent threat, and to rally the country into war. The result is: we went to war before we had to—before we had done everything we could to get the world with us.

Does anyone in this room really, seriously believe that our interests would have been severely hurt if we had waited to go to war until this September or this October when we knew we had much more to do with you? And there's another terrible result the damage done to our credibility.

It happens now. What do we have to rally the world about a weapons program in North Korea or Iran? Will anyone believe us?

In 1962, President Kennedy sent former Secretary of State DeGaulle a full intelligence report to back up the allegations. The French President said that wasn't necessary, he didn't need to see the report. He told DeGaulle he trusted Kennedy. That he knew the President would never risk war unless he was sure of his facts. After the way this Administration handled Iraq, will we ever recover that level of trust with any of our allies?

What price will we have to pay for the mistrust we've created?

GET IT RIGHT IN IRAQ

Last month, Senators Lugar, Hagel and I traveled to Baghdad. We left behind two of our senior staffers for an extra week to see more of the country and talk to Iraqis. We saw first hand that we have the best people on the ground. We saw our commanders with officers and with enlisted men and women and we spent time with Ambassador Bremer and the A-team he's assembled. This Administration handled Iraq, we will never recover that level of trust with any of our allies.

What price will we have to pay for the mistrust we've created?

The truth is there's little intelligence to substantiate any of these claims. The truth is that these are not the sorts of threats that are in our intelligence community about each of these allegations. Yet the administration has refused to defend each of these allegations as accepted facts.

I believe the purpose was to create a sense of urgency, the sense of an imminent threat, and to rally the country into war. The result is: we went to war before we had to—before we had done everything we could to get the world with us.

Does anyone in this room really, seriously believe that our interests would have been severely hurt if we had waited to go to war until this September or this October when we knew we had much more to do with you? And there's another terrible result the damage done to our credibility.

It happens now. What do we have to rally the world about a weapons program in North Korea or Iran? Will anyone believe us?

In 1962, President Kennedy sent former Secretary of State DeGaulle a full intelligence report to back up the allegations. The French President said that wasn't necessary, he didn't need to see the report. He told DeGaulle he trusted Kennedy. That he knew the President would never risk war unless he was sure of his facts. After the way this Administration handled Iraq, will we ever recover that level of trust with any of our allies?

What price will we have to pay for the mistrust we've created?
to guard hospitals, bridges, banks, and schools. If we had them, we could concentrate our troops in the Sunni triangle—where they’re needed and where they can do the type of military job for which they were trained.

The second security issue is the pervasive lawlessness that makes life in Iraq so difficult for its citizens. During the day, many Iraqis are afraid to leave home, go to work, go shopping even for the basic needs of their family. At night that fear makes much of Iraq a ghost town. Without cops, there are countless reports of rapes and kidnappings.

When we arrived at the Baghdad police academy run by former New York City Police Chief Bernie Kerik, they told us just how far we have to go to get a functioning police force up and running.

Under Saddam, Iraqi cops rarely left their headquarters. If there was a murder, they wouldn’t investigate out in the field. They’d ask people to come to them, and if they didn’t—they’d get shot. We’re not just re-training Iraq’s cops, we’re training them from the ground up.

We’ve got to build back up to the 18,000 police cars that are needed from the 200 available now. We’ve got to rebuild Iraq’s major prisons, virtually all of which were burned or looted. Saddam’s only Iraqis can provide for their own security.

The Iraqi Civil Defense Corps we’ve begun to establish will help, but all of our experts agree that it’ll take five years to train the necessary police force of 75,000 and three years to field an army of 40,000. Until then, security is on our shoulders.

Meanwhile, the Administration seems to have lost interest in the very issue they told us was the reason to go to war—Iraq’s WMD. I can’t understand how any American can believe that Saddam has any WMD sites after the war, leaving them vulnerable to looting and smuggling.

And I can’t understand how the Deputy Secretary of Defense could say, just last week, that he’s “not concerned about weapons of mass destruction.”

On top of these overwhelming security challenges, the country’s infrastructure is suffering from almost 30 years of neglect. That certainly shouldn’t have been a surprise. Even before the war, demand for electricity exceeded supply—6000 megawatts were needed; 4000 was the capacity. There were brownouts and blackouts. Today we’re not even getting megawatts to the areas where we don’t get there until September. It’ll take several years and more than 13 billion dollars to stay even with demand. The same is true with water—we’ll need five years and more than 15 billion dollars to meet Iraqi demand. This feeds the gnawing sense of insecurity that plagues the Iraqi population.

Ultimately, our goal has to be to revive Iraq’s economy because idle hands, rising frustration, and 5 million AK-47s is not a recipe for stability. Failing to feed them is the terrible job of letting Iraqis know how Saddam destroyed their country and that we’re working to make their lives better.

In fact, when I was in Baghdad, the CPA was broadcasting just 4 hours a day. I’m told we’re up to nearly 14 hours but the programming—bureaucrats reading dry, dull official script—makes public access television look good! Meanwhile, Al Jazeera and Iranian TV dominate the airwaves 24/7 with more sophisticated programming. The bottom line is this: it’s not just about understanding how the most powerful nation on earth, which toppled Saddam in three weeks, and, with exact precision, directed laser guided bombs through the door of a house, how that all-powerful nation can’t get lights turned on.

In short, Iraqis have high expectations and we’re not coming close to meeting them. Some of this is out of our control but we’ve brought a large part of this on ourselves. And that’s because we underestimated that the civil service, the army, and the police would remain intact and that all we’d have to do is replace the Baathist leadership. They assume much of it would be the same.

The assumptions were wrong, wrong, wrong.

The result is: They failed to begin planning for a peace transition to the Iraqis two weeks before we attacked forgetting that we began planning for post-war Germany three years before the end of World War II. They failed to join Chiefs say we had been too late.

They failed to account for the decay and destruction of Iraq’s infrastructure. They failed to secure commitments from other countries to help pay for Iraq’s reconstruction. They failed to see the critical importance of putting enough boots on the ground, both our own and those of the coalition partners. Back in 1999, our military planners ran an exercise that concluded we’d need 400,000 troops—not to win, but to secure Iraq.

They failed to get the coalition to pay for our troops, virtually all of which were burned or looted. They assumed we’d pay for the lion’s share of reconstruction. All these assumptions were wrong, wrong, wrong.

So that leaves us with three options: We can: get our allies to help relieve us, as the Chairman of the Joint Chiefs says we have; we don’t get the water running; if we can’t make sure that a woman can leave home or send her children to school safely; if we can’t get the lights on; if we fail to bridge the expectations gap by better communicating to the Iraqi people; if paralysis of progress continues for months from mistakes, errors, or miscalculations; if ALL of this happens, we’ll lose not only the support of the Iraqi people but the support of the American people as the discontents rise. At that point, I predict, this Administration will be seriously tempted to abandon Iraq. They’ll hand over power to a handpicked strongman—yes, the French and the Germans and even the British in my view. We have to bring in our allies. And you may ask: why would they want to help? The answer is... it’s in their interest. Iraq is in Europe’s front yard. Most European countries have large Muslim populations. They have commercial interests. Stability in Iraq is vital for Europe’s security and it is vital for the Arab world as well. They need to get invested just as we are.

THREE STEPS WE CAN TAKE

So what do we do to bring in the international community and support of the Iraqis as well as the American people? First, we need a new U.N. Resolution. We may not like it, but most of the rest of the world would have it if we worked with them, and the United Nations is the force that would help pay for the reconstruction of Iraq and it would help pay for the lion’s share of reconstruction. Let’s keep in mind, the President personally tried for weeks to persuade Iraq and NATO to send another 20,000 troops to Iraq. He said “no—not without a U.N. resolution. With such a resolution, I think we could persuade France, and Germany, and NATO to play a larger and official role to secure the peace. But not without a resolution.

We have to understand that leaders whose opposition to support building the peace. We have to understand and be willing to accept that giving a bigger role to the United Nations and NATO means sharing control, but it’s a price worth paying. It decreases the danger to our soldiers and increases the prospects of stability.

Second, it’s time to act magnanimously towards our friends and invite them in. We go to war, there’s no longer going to ask them to be partners in the peace. Instead we served freedom toast on Air Force One.

The American people get it. They intuitively understand that we can’t protect ourselves from a danger coming at us from a place like DC; a vial of anthrax in a backpack; or a homemade nuke in the hold of a ship steaming into New York harbor. We need the help of every intelligence service and every customs service in the world, without Interpol and yes, the French and the Germans and even the British in my view.

The truth is, we missed a tremendous opportunity after 9-11 to bring our friends and allies along with us and to lead in a way that actually encouraged others to follow. We missed an opportunity, in the aftermath of our spectacular military victory to ask those who were not with us in the war to be partners in the peace. Instead we served freedom toast on Air Force One.

The American people get it. They intuitively understand that we can’t protect ourselves from a danger coming at us from a place like DC; a vial of anthrax in a backpack; or a homemade nuke in the hold of a ship steaming into New York harbor. We need the help of every intelligence service and every customs service in the world, without Interpol and yes, the French and the Germans and even the British in my view.

Third, and most importantly, I said it a year ago, and I’ll say it again: no foreign policy can be sustained without the informed consent of the American people. We learned that lesson in Vietnam, but we haven’t applied it to Iraq. I cannot overstate the importance of keeping the American people informed about what we’re doing, and the extent we know them, and the importance of staying the course in Iraq.

This Administration has been good at projecting power, but it hasn’t been anywhere near as good at sustaining power. Nor has it been good at convincing the American people that securing Iraq is a necessary, if costly, task. So the Chairman says was right.

If we learned one thing last year, it should be that the role of those of us in positions of leadership is to speak the truth to the American people—and lay out the costs and the extent we know them and to explain to the American people exactly what’s expected of them in terms of time, dollars, and commitment.

Our role as leaders is not to color the truth with cynicism and ideological rhetoric but to...
DRUG SENTENCING REFORM ACT OF 2001

In the last Congress, Senator Sessions introduced legislation to reduce the disparity in punishment between crack and powder cocaine offenses, and to focus the punishment for drug offenses on the nature of the offense and the culpability of the offender. The legislation reduces the disparity in sentencing between powder cocaine and crack cocaine by changing the ratio from 100 to 1 to 20 to 1. (Under state law in Delaware, the ratio is 1 to 1.) It does so by reducing the penalty for crack and increasing the mandatory minimum sentence for powder cocaine.

Senator Sessions’ legislation is a good start to address the disparities in mandatory sentencing between crack and powder cocaine, and achieves the recommended 20 to 1 sentencing ratio for the Sentencing Commission. The bill does so by lowering the threshold quantities for powder cocaine, and increasing the threshold for crack cocaine.

However, the Sentencing Commission’s recommendation was to leave the quantity-based penalties for powder cocaine unchanged. Given that this recommendation was unanimous, I think it should be given considerable weight. Thus, I would not recommend supporting legislation that adjusts the disparity in sentencing between crack and powder cocaine by changing the threshold amounts for powder cocaine.

In addition, Hispanic, African-American, and other minority groups are very opposed to Senator Sessions’ legislation since his bill essentially increases penalties for powder cocaine by lowering the amount needed to receive a mandatory sentence. Instead, the legislation does not address the 5-year mandatory minimum for simple possession of crack cocaine. Crack cocaine is the only drug that has a mandatory minimum sentence for simple possession.

Finally, Senator Biden’s Subcommittee held a hearing in the last Congress to review the recommendations of the Sentencing Commission. It is clear from the transcript of that hearing that Senator Biden believes that the mandatory minimum sentencing schemes should be changed and has not supported Senator Sessions’ approach. According to Senator Biden’s staff, the Senator had been interested in developing his own legislation to address sentencing issues in the last Congress. Therefore, given Senator Biden’s history on this issue, from writing the original mandatory sentencing law in 1986 to his interest in adjusting this law, I would strongly recommend that you speak with him directly before taking any action on this subject.

NAACP V. ACUSPORT

Mr. LEVIN. Mr. President, last week U.S. district court judge Jack Weinstein of the New York district court in the case of NAACP v. Acusport, Inc. et al. “clear and convincing evidence” that some gun manufacturers are guilty of “careless practices.” The NAACP filed the lawsuit against gunmakers and wholesalers for what they argued were negligent firearms distribution practices. The NAACP lawsuit did not seek financial relief but instead a court order to force the gun industry to take meaningful steps towards safer business practices. Judge Weinstein’s decision was a broad condemnation of current business practices in the gun industry. He ruled that the evidence presented at trial demonstrated that defendants are responsible for the creation of a public nuisance and could, voluntarily and through easily implemented changes in marketing and more discriminating control of sales practices of those to whom they sell their guns, substantially reduce the harm occasioned by the diversion of guns to the illegal market and by the criminal possession and use of those guns.

Although Judge Weinstein did not grant the NAACP the relief it sought, the gun industry should take no consolation in this result. In fact, relief was denied only because the court found that all New Yorkers suffered from the same kind of injuries from gun industry misconduct suffered by members of the NAACP.

The Lawful Commerce in Arms Act that recently passed the House and has been referred to the Senate Commerce Committee would shield negligent and reckless gun dealers from many legitimate civil lawsuits like the NAACP case. Certainly, those in the industry who conduct their business negligently or recklessly should not be shielded from the civil consequences of their actions. I urge my colleagues to oppose this bill.

THE RETIREMENT OF SHARON PETERSON

Mr. BAUCUS. Mr. President, I rise to pay tribute and express my deepest appreciation for a member of my staff who has served the U.S. Senate, me personally, and the State of Montana admirably.

Today is my State director Sharon Peterson’s last day. She retires today after more than 22 years of service in the Senate.

Sharon’s career in public service is the culmination of a lifetime of hard work.

Sharon became interested in public service after seeing the late Senate Majority Leader Mike Mansfield speak in Lewistown. He inspired her to give back to Montana. Which she’s been doing ever since.

As a Fergus County rancher, along with her husband Garde, she has always been interested in the policies that affect Montana agriculture. And she’s considered an expert in related fields.

Sharon helped organize Montana Women Involved in Farm Economics—or WIFE—in 1975. This led to an appointment from President Jimmy Carter to serve on the board of the Women Involved in Farm Economics Foundation.

In 1986, Sharon’s daughter, Elizabeth, helped organize Montana Women Involved in Farm Economics—or WIFE—in 1975. This led to an appointment from President Jimmy Carter to serve on the board of the Women Involved in Farm Economics Foundation.
Carter to the U.S. Commission on Alcohol Fuels, where she served from 1979 to 1981.

I remember vividly Sharon bending my ear on ethanol. She once traveled to Washington—before she was on my staff— for increased ethanol production. I remember being late for a Capitol Hill press conference and Sharon literally dragging me by my shirt sleeves to make it on time. She was just like that—always on the move, always aggressive.

A tireless Chair for the Montana Democratic Party, Sharon was very politically active. And she was a familiar face in Helena during many state legislative sessions.

Sharon joined my staff in Billings in 1981. Back then, we didn’t have c-span, no e-mail, no Blackberry on Palm Pilots. We didn’t even have computers in my State offices when Sharon first started. Only an old roll-paper fax or two. This made it challenging for our State operation. But they worked hard to stay in touch with Washington.

Sharon served as my scheduler for 10 years. And she was tenacious in making sure I was on time, which is, as we all know in the Senate, not an easy task especially back then.

I once did a work day—work alongside Montanans at least one day a month—at the Stillwater Mine in Columbus. I was having so much fun working in the mine, I didn’t want to leave. Sharon, afraid of nothing and against the caution of mine workers, came down into the mine shaft to get me to my next meeting.

She once called the kitchen of a restaurant in Choteau and told the dishwasher to get me moving.

Sharon helped organize the 1989 Montana Cattle Drive celebrating Montana’s bicentennial. Again, I was having so much fun I stayed out on the drive for several days longer than I was supposed to. Sharon drove out to camp and took me to a pay phone to call my Washington staff.

Sharon helped on my first Senate campaign, in 1978. She helped deliver Fergus County, which she later realized was a lot harder than one might think.

I appointed her my State director in 1993. In this role, she was a key advisor to me. She was a strong voice for Montana on agriculture, transportation, rural health and education, trade and natural resources. She fought for rural communities and Main Street businesses.

She was a tireless advocate for farmers and ranchers, helping to pass numerous farm bills and helping producers through the drought of the 1980s.

She organized the first of many trade trips to foreign countries.

As State Director, Sharon took pride in making sure our State operations worked smoothly and served Montanans well. She answered my toll free line for 22 years. That’s the 800 number Montanans use to get in touch with me. She was dedicated to case work. She personally helped thousands of Montanans.

For many years I have counted on Sharon to educate us on the realities of living in rural areas. She insisted we approach whatever the problem is—everything we do. She believes strongly in protecting the Montana values of doing what’s right, common sense, faith, hard work, a strong connection to the land, and community.

Her Montana roots run deep. Long ago, we learned Montanans to move to Washington. She stayed for two weeks and went home. Montana is her home. She loves our State. I doubt she’ll ever leave. Sharon’s a rancher. She’s a salt-of-the-earth Montanian.

When I asked Sharon what the best part of the job was she said: “The ability to help people and make Montana an even better place.”

She did both.

I’ll miss her. My staff will miss her. The Senate will miss her. And most importantly the State of Montana will miss her.

She truly made “The Last Best Place” even better. For that, we are eternally grateful. And we wish her and Garde all the best.

NOMINATION OF PAUL MICHAEL WARNER

Mr. HATCH. Mr. President, I rise in support of the nomination of Paul M. Warner of Salt Lake City, who has been renominated by President Bush for the position of U.S. attorney for the District of Utah.

Paul Warner has had a remarkable career in public service. After graduating from the J. Reuben Clark Law School in 1976, he enlisted in the U.S. Navy Reserve Judge Advocate General Corps, where he served as both prosecutor and defense counsel. From 1982 to 1989, Mr. Warner served in the Utah Attorney General’s Office, where he did tremendous work on both civil and criminal matters. In 1983, he enlisted with the Utah Army National Guard, Judge Advocate Branch, where he has risen to the rank of colonel. Since 1989, he has served in the U.S. Attorney’s Office for the District of Utah, where he has worked on both civil litigation and criminal prosecution. He became the U.S. Attorney for the District of Utah in 1998 and has served ably in that office ever since.

I think it is important to have a career prosecutor with the reputation and ability of Paul Warner to lead the Federal law enforcement effort in Utah. He is a man committed to the rule of law and has a proven track record on the problems that affect Utah, notably methamphetamine proliferation and illegal reentry by criminal aliens.

Paul Warner has been able to be so effective because he has developed a great working relationship with Federal, State, and local law enforcement personnel. I believe that without excep-
and to strengthen private property ownership in rural communities. I understand why Senator Reid offered this amendment. Mexico is important to the United States, and it deserves our attention. But I voted against this amendment. Let me explain why.

A better way to improve Mexico's economy, including its rural economy, is not through foreign assistance from the United States, but through trade. As recently noted by the Ambassador of Mexico to the United States, Mexico has been transformed in recent years through trade liberalization, and in particular through the NAFTA. Mexico's exports to the world grew from $50 billion to $160 billion between 1993 and 2001. Total trade between the United States and Mexico increased from $88 billion to $250 billion between 1993 and 2002.

Mexico's agricultural producers have shared in the benefits of NAFTA. Between 1993 and 2001, Mexican agricultural exports to the United States rose by almost 97 percent. Some 78 percent of all Mexican agricultural exports were shipped to the United States, and the United States is by far Mexico's largest agricultural export destination.

While well intentioned, increased foreign aid from the United States, such as through Senator Reid's amendment, will make little difference to the Mexican economy. Clearly, Mexico's leaders recognize that the best means of achieving a healthier Mexican economy, including Mexico's rural economy, is through continued strong trade ties with the United States.

Regardless, some of these same leaders seem to be losing interest in maintaining strong trade relations between our countries. They are doing this by attempting unilaterally to renegotiate agricultural provisions of the NAFTA.

Mexico has imposed, or threatened to impose, restrictions on the importation of a variety of U.S. agricultural products. These products include pork, beef, corn, and high fructose corn syrup, all of which are major Iowa commodities. I spoke on this situation just last month on the Senate floor, so I will not go into the specifics on Mexico's trade restrictions on these commodities.

Given barriers imposed by Mexico on U.S. agricultural products, now is clearly not the proper time to increase foreign aid to Mexico. Mexico's trade policies are harming farmers in Iowa and other states. Providing more foreign aid to Mexico sends the wrong signal. I realize that Senator Reid's amendment to increase foreign aid has already passed the Senate. But until such time as Mexico's agricultural trade barriers are removed, I urge senators to keep them in mind when voting on any future legislation involving foreign aid for Mexico.

At the same time, I hope that Mexico will realize that by not abiding by its NAFTA commitments and by thus threatening its trade relations with the United States, it is doing little to improve the lives of rural Mexicans.

In fact, any reduction in trade between our two countries would likely lead to increased economic hardship in Mexico. Such a situation would benefit neither Mexico nor the United States. Once again, as I did last month, I urge us to consider the effects that Mexico's barriers to imports of U.S. agricultural products are having on overall trade relations between the United States and Mexico. Mexicans, including those living in rural areas, have much more to gain from improved trade ties to the United States than from increased foreign aid.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories of hate crimes to existing law, sending a signal that violence of any kind is unacceptable in our society. I would like to describe a terrible crime that occurred in Medford, OR. On January 30, 2003, three Oregon National Guardsmen beat a homeless man then attacked a Medford motel owner whom they believed was an Arab. One of the men committed suicide after the attack and the other two pleaded guilty to hate-related charges.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FAMILY FARMER BANKRUPTCY PROTECTION, H.R. 2465

Mr. LEAHY. Mr. President, I am pleased that the Senate is finally considering legislation to renew family farmer bankruptcy protection, which expired on July 1. More than a month ago, on June 23, the House of Representatives passed H.R. 2465 by an overwhelming vote of 379-3. This legislation will retroactively renew and extend family farmer bankruptcy protection until January 1, 2004. Senator GRASSLEY and I have been urging for weeks that the Senate majority leadership bring up this House-passed bill to retroactively renew Chapter 12 of the Bankruptcy Code.

Senator GRASSLEY and I introduced S. 1323, the companion bill to this legislation to temporarily extend these protections that our farmers have come to rely upon. But this is just a short term fix. We need to stop playing politics and permanently reauthorize the Chapter 12 family farmer protections.

Too many family farmers have been left in legal limbo in bankruptcy courts across the country because Chapter 12 of the Bankruptcy Code is still a temporary measure. This is the sixth time that Congress must act to restore or extend basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage as a law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

For example, the Senate—then as now controlled by the other party—failed to take up a House-passed bill to retroactively renew Chapter 12. As a result, family farmers lost Chapter 12 bankruptcy protection for 8 months. Another lapse of Chapter 12 lasted more than 6 months in the previous Congress. At the end of June, Chapter 12 lapsed once again. Enough is enough. It is time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our nation's family farmers.

Last year, I strongly supported former Senator Carnahan's bipartisan amendment to make Chapter 12 permanent as part of the Senate-passed farm bill and Senator Feinstein's amendment, the Carnahan amendment by a 93-0 vote. Unfortunately, the House majority objected to including the Carnahan amendment in the farm bill conference report and agreed to an extension of Chapter 12 only through 2002. Thus, at the tail end of the last Congress, we had to pass yet another six-month extension of basic bankruptcy protection for family farmers.

In the bipartisan bankruptcy reform conference, we again tried to make Chapter 12 permanent and update and expand its coverage. During our conference negotiations, we adopted most of the Senate-passed provisions, including those authored by Senator GRASSLEY. This would make Chapter 12 permanent and those authored by Senator FEINGOLD to strengthen Chapter 12 to help our family farmers with the difficulties they face.

Unfortunately, the House majority again scuttled our bipartisan efforts by failing to pass the rule to consider the bipartisan conference report on the Bankruptcy Abuse Prevention and Consumer Protection Act.

It is time to end this absurdity and make Chapter 12 a permanent protections for family farmers. Everyone agrees that Chapter 12 has worked. When this bill passed in the House, Chairman SENSENBRINNER praised Chapter 12, but then only proposed reauthorizing it for 12 months. He admitted that the only reason his bill, which we at the time passed, did not permanently reauthorize Chapter 12 was because it is being used as leverage for the controversial larger bankruptcy reform bill. That is unfortunate.

I will continue to work hard with Senator GRASSLEY, Senator FEINGOLD and others on both sides of the aisle to pass legislation that once and for all...
assures our farmers of permanent bankruptcy protection to keep their farms. In the meantime, we should quickly pass this legislation and end another lapse in this basic bankruptcy protection for our family farmers.

HAWAII AND SHIPPING CONTAINER SECURITY

Mr. AKAKA. Mr. President, I rose today to address the continued need to secure our Nation's shipping containers.

The U.S. economy is heavily dependent on the normal flow of commerce and the security of our Nation's ports. Over the past 6 years, commercial cargo entering America's ports has nearly doubled. About 7 million shipping containers arrive in U.S. seaports each year.

The Department of Homeland Security recently proposed new regulations to improve shipping container security by requiring advance information in electronic format for cargo entering and exiting the United States.

In my view, the Department needs to do more. To improve container security we must ensure that shipping container programs are effective by having the right personnel and the right management strategies in place.

Currently, the Customs Service administers two container security programs within the Department of Homeland Security: the container security initiative, known as CSI, and the customs-transportation provider anti-terrorism, or C-TPAT. By 2004, the Department plans to increase the funding for CSI fourteenfold and for C-TPAT by 50 percent.

A July 2003 General Accounting Office, GAO, review on container security programs raises concerns that the Customs Service has not taken the steps required to ensure the long-term success and accountability of CSI and C-TPAT. According to the GAO report, Customs Service needs a critical point in the management of CSI and C-TPAT and must develop plans to address workforce needs to ensure the long-term success of these programs.

As a Senator from a State reliant on shipped products, I understand the importance of container security. My State is uniquely vulnerable to disruptions in the normal flow of commerce. In fact, 98 percent of the goods imported into Hawaii are transported by sea.

Honolulu Harbor received more than 1 million tons of food and farm products and over 2 million tons of manufactured goods per year. In 2002, Honolulu received 1,340 foreign ships and about 300,000 containers. Over 8 million tons of these goods arrive at Honolulu Harbor, which receives one-half of all cargo brought into the State.

This is why I support GAO's recommendation that Customs develop strategic plans that clearly identify the objectives the programs are intended to achieve and to enhance performance measures.

I urge the Department of Homeland Security to implement GAO's recommendation by developing workforce plans and strategies to strengthen container security and to attract, train, and retain workers within CSI and C-TPAT. This is no small challenge. By the end of 2004, Customs expects to hire 120 staff for CSI and increase staffing levels in C-TPAT by fifteenfold. Moreover, it is estimated that 46 percent of the Customs workforce will be eligible to retire by 2008.

Now more than ever, agencies must have the plans and strategies in place to recruit personnel with the skills necessary to protect our country. As the U.S. Commission on National Security/21st Century concluded in 2001: "[T]he maintenance of American power in the world depends upon the quality of U.S. government personnel, civil and military, at all levels . . . The U.S. faces a broader range of national security challenges today, requiring policy analysts and intelligence personnel with expertise in more countries, regions, and issues.

To meet these national security challenges, workforce and strategic planning for CSI and C-TPAT deserve the full attention of the Department of Homeland Security.

Such attention is critical for a State like Hawaii that is uniquely dependent on shipping of goods. The potential consequences of a terrorist incident involving a shipping container are, in the words of Customs Service Commissioner Bonner, "... profound . . . no ships would be allowed to unload at U.S. ports after such an event."

I look forward to working with the Department to ensure that the foundation is in place for CSI and C-TPAT to secure shipping containers over the long term.

HONORING OUR ARMED FORCES

SPECIALIST MICHAEL DEUEL

Mr. THOMAS. Mr. President, I rise today to speak about a young man from my State who selflessly performed as his country asked. While doing so Army SP Michael R. Deuel was killed in Iraq on June 18 while on guard duty at a propane distribution center.

Michael was a good soldier and served proudly in the 325th Infantry Regiment's 82nd Airborne Division. He comes from a family of military tradition that he carried with him. It was the Air Force that brought the Deuel family to Wyoming where both parents served in the Air Force that brought the Deuel family to Wyoming where both parents served. He joined the Army in 2000 as a smoke jumper and learned to parachute. Eventually he wanted to become a smoke jumper and fight forest fires. This too is a particularly dangerous job, and as we see through this year's fire season it is one that saves the survival of our towns and rural communities in the West. Michael's decision to be in the army and his goals for life after the Army paint a picture of a young man committed to his country and his fellow Americans.

As operations continue in Iraq and the threat tightens around the remnants of the regime, I offer America's thanks to Michael Deuel and to his family. It takes a special person to answer the call to public service. It is challenging and dangerous. America remains strong and steadfast because of the courage that they have shown in the face of danger.

Thank you for your service and sacrifice. May God bless SP Michael Deuel of the 82nd Airborne Division and may God continue to bless the United States of America.

Mr. BIDEN. Mr. President, I rise today to speak in support of Karen Tandy's nomination to be Administrator of the Drug Enforcement Administration. I am pleased that the Senate confirmed her nomination last night.

I had an opportunity to meet with Ms. Tandy a few weeks ago in my office and I was quite impressed by her. With over 30 years' experience in drug enforcement, I believe that she is not only well qualified to be the DEA Administrator, but that she will also bring a passion for drug policy to the job.

Both in her work as a prosecutor and in leadership positions at the Justice Department, Ms. Tandy's focus has been on drug trafficking, money laundering and asset forfeiture. She has served as an Assistant U.S. Attorney in Virginia and Washington State, Chief of Legislation in the Asset Forfeiture Office and Deputy Chief of the Narcotics and Dangerous Drugs Section at Main Justice. For the past 4 years she has served as Associate Deputy Attorney General and the Director of the Organized Crime Drug Enforcement Task Force (OCDETF) program. During that time she has focused the OCDETF program and provided tremendous leadership.

Her nomination has the endorsement of a number of well-respected organizations including the Fraternal Order of Police, the National Troopers Association, the Association of Former Narcotics Agents, the National Narcotics Officers' Association Coalition, the Community Anti-Drug Coalitions of America, the County Executives of America, and the International Union of Police Associations.

Ms. Tandy comes to the DEA at a time when both Federal and State resources are shrinking. I believe that she will have a difficult time fighting for scarce resources and keeping the drug issue on the national agenda.
After September 11, the FBI transferred 567 agents from counterterrorism investigations and the DEA was left to fill in the gap without adequate funding. The President’s 2004 budget only provides funding for an additional 350 Special Agents. By shutting down popular programs such as the Mobile and Regional Enforcement Teams, DEA has been able to shuffle around 362 agents, making them look like new agents when they are not.

The magnitude of the gap left by the FBI is quite troubling. According to a recent GAO report, the number of FBI Agents working on drug cases has decreased 62 percent from 891 to 335, since September 2001. And the number of new FBI drug cases has plummeted from 1,825 in fiscal year 2000 to only 310 in the first half of fiscal year 2003.

It is clear that the DEA will need more resources if it is expected to fill the sizeable void left by the FBI. That is why I joined with twelve other Senators to write to the appropriators urging them to provide more money for the DEA to be able to do its job. I hope that at the end of the day the Congress will be able to give them more money than the President requested.

Another which relates closely to the work of the DEA is the Illicit Drug Anti-Proliferation Act, legislation which I authored that became law as part of the PROTECT Act in April. The bill provides Federal prosecutors the tools to combat drug trafficking, distribution or use of any controlled substance at any venue whose purpose is to engage in illegal narcotics activity. Rather than create a new law, it merely amends a well-established statute to make clear that anyone who knowingly and intentionally uses their property—or allows another person to use their property—for the purpose of distributing or manufacturing or using illegal drugs can be held criminally responsible, regardless of whether the drug use is ongoing or occurs at a single event.

I introduced this legislation after holding a series of hearings regarding the dangers of Ecstasy and the rampant drug promotion associated with some raves. For the past few years Federal prosecutors have been using the so-called “crack house statute”—a law which makes it illegal for someone to knowingly and intentionally allow an event for the purpose of drug use, distribution or manufacturing—to prosecute rogue rave promoters who profit off of putting kids at risk. My bill simply amended that existing law in two ways. First, it made the “crack house statute” applicable not just to ongoing drug distribution operations, but to “single-event” activities, including an event where the promoter has as his primary purpose the sale of Ecstasy or other illegal drugs. And second, it made the law apply to outdoor as well as indoor activity.

Although this legislation grew out of the problems identified at raves, the criminal and civil penalties in the bill would also apply to people who promote any type of event for the purpose of illegal drug manufacturing, sale, or use. This said, it is important to recognize that this legislation is not designed in any way, shape or form to improperly target the legitimate event promoters. If rave promoters and sponsors operate such events as they are so often advertised—as places for people to come dance in a safe, drug-free environment—then they have nothing to fear. In no way is this bill aimed at stifling any type of music or expression—it is only trying to deter illicit drug use and protect kids.

I know that there will always be certain people who will bring drugs into musical or other events and use them without the knowledge or permission of the promoter or club owner. This is not the type of activity that my bill addresses. The purpose of my legislation is to punish the abiding managers of stadiums, arenas, performing arts centers, licensed beverage facilities and other venues because of incidental drug use at their events. In fact, when crafting this legislation I was very careful that it did not capture such cases. My bill would help in the prosecution of rogue promoters who intentionally hold the event for the purpose of illegal drug use or distribution. That is quite a high bar.

I am committed to making sure that this law is enforced properly and have been in close contact with officials from the Drug Enforcement Administration to make sure that the law is properly construed. That is why I was concerned by press reports about a DEA Agent in Billings, Montana who misinterpreted the Illicit Drug Anti-Proliferation Act when he approached the manager of the local Eagles Lodge to warn her that she may be violating the law if the Lodge allowed the National Organization to Reform Mari-juanana Laws (NORML) to have a fundraiser at their facility. I was troubled to hear this because, according to press reports, the Eagles Lodge had no knowledge that there might be drug activity at their location before the DEA approached them. And following the DEA Agent’s misguided advice based on an inaccurate understanding of the law, the Lodge decided to cancel it's NORML fundraiser event, leading to an outcry from various groups that the new law has stifled free speech.

As I mentioned, the law only applies to those who “knowingly and intentionally” hold an event “for the purpose of” drug manufacturing, sale and use. Based upon my understanding of the facts around the NORML fundraising incident, the Eagles Lodge did not come anywhere close to violating that high bar.

I had my staff meet with the DEA chief counsel’s office to discuss the Eagles Lodge incident and DEA’s interpretation of the law. The DEA assured my office that they shared my understanding of the law and that this interpretation of the statute was conveyed to all DEA field offices shortly after the bill was signed into law.

On June 19, 2003, I wrote to Mr. Simpkins, the DEA Acting Administrator William B. Tandy acknowledged that the Special Agent “misinterpreted” DEA’s initial legal guidance on the law and “incorrectly” suggested to the Eagles Lodge that the law might apply to it. Tandy further conceded that “[r]egrettably, the DEA Special Agent’s incorrect interpretation of the statute contributed to the decision of the Eagles Lodge to cancel the event.” In response to this misguided interpretation of the law, the DEA issued on June 17, 2003, supplemental guidance in a memo to all DEA field agents making clear that:

property owners not personally involved in illicit drug activity would not be violating the Act unless they intentionally permitted on their property an event primarily for the purpose of drug use. Legitimate property owners and event promoters would not be violating the Act simply based upon or just because of illegal patron behavior.

I have expressed clearly to Ms. Tandy my expectation that the law will be applied narrowly and responsibly. Ms. Tandy has confirmed that under her direction the DEA will implement the law as it was intended, targeting only those events whose promoters knowingly and intentionally allow the manufacture, sale or use of illegal drugs. In the DEA’s June 19, 2003 letter to me, it noted that its initial May 15, 2003 guidance: informed [DEA] personnel that [the law’s] requirements of ‘knowledge’ and ‘intent’ were not changed by the [new] Act. Accordingly, legitimate event promoters, such as bona fide managers of stadiums, arenas, performing arts centers, and licensed beverage facilities who should not be afraid that they will be prosecuted simply based upon or just because of illegal patron activity.

Obviously, DEA’s May 15th guidance was not sufficient to prevent the unfortunate Eagles Lodge incident but it reveals the Agency’s understanding and intent not to target and prosecute the sorts of legitimate businesses cited above. As this is a new law, Ms. Tandy agrees that DEA must and will redouble its efforts in training its agents on the proper legal interpretation. Finally, let me conclude by making two final responses to some critics of my law who have claimed; one, that it stretches the law beyond its original intention, and two, that it creates a legal standard that will permit innocent businesses, entertainers, concert promoters, even homeowners to be prosecuted for the drug use of those who come to their property. Both charges are wrong, as I will now explain.

I first note that the law amended section 856 of Title 21, U.S. Code. Section 856 became law in 1986. While section 856 has become known popularly as the “crack house statute,” it has always been
available to prosecute any venue—not just crack houses—where the owner knowingly and intentionally made the property available for the purpose of illegal drug activity. This fact has long been recognized by the Federal courts. As the Supreme Court wrote: ‘‘Courts—most liberal Federal appellate courts in the Nation—said: ‘‘There is no reason to believe that section 856 was intended to apply only to storage facilities and crack houses.’’’ [United States v. Tamez, 941 F.2d 770, 773 (9th Cir. 1991).] Or, in the words of the Fifth Circuit Court of Appeals: ‘‘it is highly unlikely that anyone would openly maintain a place for the purpose of manufacturing and distributing cocaine without some sort of ‘legitimate’ cover—as a residence, a night-club, a retail business, or a storage barn.’’ [United States v. Roberts, 913 F.2d 211 (5th Cir. 1990).]

The suggestion by some that my law expanded section 856 to entities other than traditional crack houses is simply untrue. Rather, in the 17 years section 856 has been on the books, it has been used by the Justice Department to prosecute seemingly legitimate businesses for the ‘‘primary or principal use’’ (emphasis added) for drug activity. Specifically, section 856 has been used against motels, bars, restaurants, used car dealerships, apartments, private clubs, and taverns. [See United States v. Chen, 913 F.2d 183 (5th Cir. 1990); United States v. Bils, 170 F.3d 98 (1st Cir. 1999); United States v. Meschack, 225 F.3d 556 (5th Cir. 2000); United States v. Tamez, 941 F.2d 770 (9th Cir. 1991); United States v. Roberts, 913 F.2d 211 (5th Cir. 1990); United States v. Cooper, 966 F.2d 936 (5th Cir. 1992); Huerd v. United States, 1995 U.S. App. LEXIS 2949 (Fed. 10, 1993, 9th Cir.).]

The bottom line is that if a defendant hides behind the front of a legitimate business, or allows a drug dealer to do so on their property, they should be held accountable. Just as the crime punishes the defendant who ‘‘aims and abets’’—like the getaway driver in a bank robbery section—section 856 has always punished those who knowingly and intentionally provide a venue for others to engage in illicit drug activity.

The second point I will make is that my law does not—does not—change the well-established legal standard of section 856 which is required to secure a criminal conviction. For example, I introduced in the House would create criminal liability for anyone who ‘‘knowingly promotes any rave, dance, music, or other entertainment event, that takes place under circumstances where the promoter knows or reasonably ought to know that a controlled substance will be used or distributed.’’ I disagreed with this approach because it would have replaced the high legal standard of section 856, on the books for 17 years, with a much lower standard where some incidental drug use might occur.

For example, under section 856 conviction against a defendant who had allowed her son to deal drugs out of his bedroom. There was evidence that his mother, the defendant, assisted him in his drug dealing. While the court sustained her conviction under a count of aiding and abetting, it reversed her conviction under section 856, finding that while she knowingly allowed drug dealing on her property, the primary purpose of her apartment was as a residence, not as a venue for illicit drug activity. As the court observed: '

Accordingly, the courts have interpreted that ‘purpose prong’ of section 856 to prevent prosecution of defendants who knowingly allowed drug use on their property. In so doing, the courts have recognized that it’s not enough to simply know that illicit drug activity is occurring on one’s property; the property owner must be maintaining the property for the specific purpose. This is particularly true when section 856 is used against a ‘non-traditional crack house,’ such as a residence or business. In fact, a federal appellate court reversed a section 856 conviction against a defendant who had allowed her son to deal drugs out of his bedroom. There was evidence that his mother, the defendant, assisted him in his drug dealing. While the court sustained her conviction under a count of aiding and abetting, it reversed her conviction under section 856, finding that while she knowingly allowed drug dealing on her property, the primary purpose of her apartment was as a residence, not as a venue for illicit drug activity. As the court observed: ‘‘

manufacturing, distributing, or using drugs must be more than a mere collateral purpose of the residence. Thus, the ‘casual’ drug use does not run afoul of section 856 because he does not maintain his house for the purpose of using drugs but rather for the purpose of residence, the consumption of drugs therein being merely incidental to that purpose.’’ We think it is fair to say, at least in the residential context, that the manufacture (or distribution or use) of drugs must be at least one of the primary or principal uses to which the house is put. United States v. Verner, 53 F.3d 291, 296 (10th Cir. 1995).

This analysis makes clear that section 856 cannot be used—as critics of my law claim—in the defendant’s pro-
Mr. ROCKEFELLER. Mr. President, this week, we have heard from many of the Administration’s representatives, including several who testified before the Senate Governmental Affairs Committee on Tuesday, that our reconstruction efforts in Iraq are going much better than we read in the press reports, especially in the north and the south of the country. I don’t dispute that; I was in Iraq earlier this month, and some really remarkable efforts by U.S. troops and our reconstruction authorities are making.

But I want to state clearly: Out in our states, public support is ebbing much more rapidly than one reads in the Washington media.

There is growing concern about the steady and growing stream of combat fatalities and, as importantly, a sense that we have no strategy for stopping them.

There is great frustration over the extension of military tours of duty in Iraq, something that is especially disruptive to the National Guardsmen and Reservists who are playing such an important role in Iraq.

Last week, for example, an Air National Guard unit from Charleston, the 130th Airlift Wing, was told that rather than have the entire unit return to West Virginia as scheduled, the unit will need to stay on in the Middle East until the end of the year. And before the members of the 130th could even inform their families directly, their relatives back in West Virginia learned this disquieting news from the local papers.

There is increasing unease about the cost of our financial commitments in Iraq, particularly at a time of growing domestic deficits, and our failure to line up significant international contributions.

Americans are a patient people. Our 50-year commitments to Korea, Japan, and NATO attest to that. But the American people insist on information. Our international engagements have saturated the press. President Bush and his administration have laid out what our national mission is, how our vital interests are involved, what we anticipate the cost may be, and what our plans are for an exit strategy or to get other countries to share an equitable portion of the burden.

When we don’t have that, public support vanishes. There is a tendency among some in Washington to dismiss this as some sort of “Somalia syndrome.” But it is not just a passing phenomenon—it is a fundamental part of who we are as a people.

It reflects that contrary to some of the characterizations out there, Americans are not naturally imperialists, and we really can’t stand to see the freedoms we cherish. We are not seeking to remake the world in our image. We support our global commitments when we feel America’s vital national interests are at stake, and that is part of a clear and coherent strategy by our political leadership.

When America went to war in March, it commanded the support of a significant majority of Americans. But the administration must realize: It is in danger of losing that support. One can see it in the polls; I definitely hear it from some of the President’s toughest critics.

And it is leading some people to say the U.N. has no interest in taking up the U.S. role in Iraq.

This worries me deeply. America’s willingness to stay the course in Iraq isn’t a partisan issue. It is, I believe, a vital national priority. America created the current situation in Iraq, and we must make it succeed. It is a fundamental test of American security and American credibility, and it is being watched closely by our foes and our friends alike.

If America withdraws from Iraq before we are able to reconstitute a solid government backed up by strong political institutions, we will leave behind a chaotic situation that will quickly become a textbook for other enemies who wonder how to defeat America when our combat forces are unstoppable.

And if the reconstruction in Iraq does not lead to a stable state, it will be impossible to line up allies for future such operations. Even the handful of countries working with us to make Iraq succeed—the British, the Spaniards and Italians, and the Poles—will steer clear of us.

It is not too late to turn this around. But is will require clear, consistent communication from the very top of this administration.

In recent weeks, we have learned, in rather haphazard ways, from various administration officials, that we are facing a guerrilla war in Iraq that is targeting American troops with increasing precision, that the financial cost of our occupation is running at twice the level projected, that troop deployments in Iraq will likely be extended, and that none of the countries we were hoping would help share the burden in Iraq are getting cold feet.

And frankly, getting complete information has been like pulling teeth, and only reinforces the growing perceptions that decision that are being made are based on a reactive way. I’m sure there are some people who are telling the President, “stay away from the bad news”—and that is why it is left to officials like Jerry Bremer or General Abizaid to do the honest talking.

The American people need to hear, from the President, not just what a great job our troops did in the initial combat phase, but also why many of our predictions were wrong; what the administration plans to do about it, including getting more international support; and why it is important that we not let these setbacks deter us. Unless we hear some plain, honest talking from the President about how we are dealing with the post-combat challenges in Iraq, there will be a dramatic further erosion in support for staying the course in Iraq. And I think that is something none of my colleagues here in the Senate would feel good about.
ADDITIONAL STATEMENTS

THE PERILS FACING OUR GRADUATING COLLEGE STUDENTS

Mr. AKAKA. Mr. President, the national unemployment rate hit a year-high of 6.4 percent in June. We have lost more than 3.1 million private sector jobs since 2001, which is adversely impacting many of our recent college graduates who are finding it difficult to secure employment in a market that is not producing enough jobs. The Bureau of Labor Statistics has released findings that show for this same period that the unemployment rate for 20 to 24 year olds has risen from 7.2 percent to 10.7 percent.

The National Association of Colleges and Employers, which is a nonprofit association that provides resources to help career services and recruitment professionals, conducted a survey this past spring that found “corporate hiring has dropped by 42 percent since last year.” Nearly 71 percent of Government/nonprofit employers say they expect to hire fewer new college graduates this year. This information is very troubling to me because the state of our economy has restricted employment opportunities and exacerbated personal debt for young men and women graduating from college.

As our college graduates look to their future, many of them will already have accrued an excessive amount of debt ranging from student loans to credit cards. I have been working to shed light on this problem which is only getting worse, the problem of economic and personal financial illiteracy among our youth.

Accumulation of credit card debt by college students has become an issue nationwide. Credit cards are easy to get; students are able to obtain a credit card by simply submitting a copy of their school identification card. They are acquiring and using credit cards at a greater rate than ever before, without completely understanding the credit system and accruing interest. Many of these students are not adequately educated about using and paying off a credit card. Rather, many are being enticed by gimmicks to apply for a credit card. A quick Internet search can reveal dozens of sites that provide myriad of opportunities for students to obtain a credit card. Some of these sites offer credit card limits of up to $5,000. Others suggest that one could use the card to purchase books, pizza and tuition, and also earn bonus points for free music, CDs. Other inducements are offered, such as a free movie ticket for those who have good credit.

With college students finding it harder to find employment, one would hope that they would at least have a greater understanding of how to best manage their personal finances. It would have been beneficial for these graduates to have learned the essentials of money management and personal finance before leaving college, and even before leaving high school. However, we still have much to do in this area.

According to the 2002 National JumpStart Survey, economic and financial literacy scores have declined since the JumpStart Coalition for Personal Financial Literacy conducted its first survey of seniors in high school back in 1997. Of the high seniors who took the JumpStart survey, 45 percent demonstrated a clear lack of understanding of the basic fundamentals of economics and personal financial management.

We have also seen an increase in personal bankruptcy filings and, if one were to couple that with the lack of jobs available for graduating students, we see that many of our students are well on the road to financial crisis, if they are not already there. Although the Department of Education has found that the default rate on student loans has decreased substantially, it has found the dollars in default remain high. This means that students defaulting on their loans have a larger debt load, which may cause them to file for bankruptcy before they even begin a career.

In the 2002–2003 fiscal year, American lenders made about $31 billion in consolidated student loans, averaging about $27,000 each. Furthermore, 45 percent of college students are in credit card debt, with the average debt being $3,066. Our students are accruing large amounts of debt without a clear understanding of how to manage their finances. As unemployment continues to rise and the job market remains bleak, we must empower our students with a greater understanding of economic and personal finance. Although improved financial literacy is not the complete solution to their problems, it can help them to alleviate or prevent some of the financial difficulties they may encounter.

As we continue to work towards economic recovery and job creation, it is imperative to also educate our children so that they may understand and excel in economic and personal finance.

A TRIBUTE TO DR. BILL BRIGHT

Mr. NICKLES. Mr. President, in this country of unique opportunity and personal liberty, there are people who use their talents and abilities to help others. Many of these men and women go unnoticed or unappreciated in spite of their many selfless deeds.

I rise to honor a native Oklahoman who not only rose to the challenge of God’s calling in his life, but was one of the greatest visionaries and faithful servants of our time.

Dr. Bill Bright, a native of Coweta, Oklahoma, experienced something that, to many of us seems surreal: he was educated in a one-room schoolhouse for over 9 years! He graduated from Oklahoma’s Northeastern State University in 1944, where he was known for his keen academic rigor and ability. Bill married his high school sweetheart, the former Venetta Zachary, and moved to southern California to work for a television company. Although he could have made a fortune with his small but promising empire, Bill knew that he was called to a higher purpose.

Bill Bright answered that call when he found Campus Crusade for Christ. Known to many for his influential mission for spreading the Gospel, it is not difficult to understand why he achieved such international popularity. Today, Campus Crusades for Christ has over 26,000 employees and over 225,000 volunteers spanning 191 countries. His movie, JESUS, a documentary on the life of Jesus Christ, has been viewed by 5.1 billion people, which is roughly 5/6 of the present world population.

Although these are undeniable great accomplishments, a true leader demonstrates by example. And that is Bill Bright. In 1996, Bill was presented with the prestigious Templeton Prize for Progress in Religion, for his work with fasting and prayer. Worth more than 1 million dollars, Bill gave every penny of it to organizations that helped him to win that award—those promoting spiritual benefits of fasting and prayer.

My friend Bill Bright demonstrated the qualities of a true spiritual American leader. Considering his roots and achievements, it’s no surprise that Dr. Bill Bright is the evangelical Horatio Alger story of the last half-century. Those of us who have been touched by this wonderful man will certainly miss him, but one thing is for sure—Bill Bright’s vision and legacy will live on. He has made a positive difference for our state and country and I am certain helped countless individuals find eternal happiness.

IN RECOGNITION OF THE 60TH WEDDING ANNIVERSARY OF JOSEPH AND VIVIAN SAFRANEK

Mr. KOHL. Mr. President, I rise today to congratulate Joseph and Vivian Safraneck for a marriage that has lasted 60 years. It was in 1942 in the town of Iron Mountain, MI that Joseph first offered Vivian a ride home after working at the Pine Mountain ski tournament. She accepted the ride and soon after accepted his marriage proposal. On September 18, 1943 in Kingsford, MI’s Our Redeemer Lutheran Church, the two celebrated their union.

After 7 years and two children, Joseph and Vivian decided to make the move to the great State of Wisconsin. The 1950s and 60s were hard times for the Safraneks. They lived in the west side Milwaukee apartment with no running water. Joseph worked as a route salesman for the Milwaukee Cheese Co. and then at the Continental Baking Co. And even...
though money was tight, there was always more than enough good Wisconsin cheese and Wonder bread to go around.

Sixty years is a long time and a lot of memories. Their successful union could be measured in years or even tender moments, but even a rather impressive measure is their four wonderful children and seven grandchildren.

A marriage of 60 years is an impressive and rare accomplishment. Today, I express my deepest admiration for the Safraneks—the love, the laughter, the family and the marriage that, while not born in Wisconsin, symbolizes Wisconsin and its values at their best.

TRIBUTE TO CLYDE BROWN

- Mr. LOTT. Mr. President, it is with great pleasure that I pay tribute to an outstanding citizen of Mississippi. On June 13, 2003, Clyde Brown of Moss Point, MS was recognized for his long-term efforts to protect the fragile, natural resources of coastal Mississippi by receiving the 2003 National Oceanic and Atmospheric Administration’s, NOAA, Environmental Hero Award.

Established in 1995 to commemorate the 25th anniversary of Earth Day, the Environmental Hero award honors individuals and organizations for their tireless efforts to preserve and protect our Nation’s environment. Mr. Brown is among only 36 winners in the Nation of the 2003 NOAA Environmental Hero Award.

A lifelong resident of eastern Jackson County, MS, Clyde Brown recently retired after nearly 40 years of employment at the International Paper Company and is a part-time oysterman and seafood processor. He has been involved in a number of volunteer efforts that range from serving on citizen advisory councils to establishing the Mississippi Department of Marine Resources’ Grand Bay National Estuarine Research Reserve.

Mr. Brown has worked with my office and other members of Congress over the years to secure support for a variety of projects including the oyster relay project, establishment of the Grand Bay NERR, expansion of the Grand Bay National Wildlife Refuge, a local Federal Emergency Management Agency buyout, disaster relief, and the Coastal Impact Assistance Program, to name a few.

David Ruple, manager of the Mississippi Department of Marine Resources/Grand Bay National Estuarine Research Reserve said, “Clyde Brown is soft-spoken yet determined in his efforts to conserve and restore the resources of the Mississippi Gulf coast. He serves as the pulse of the local community and has been the sounding board for local residents inquiring about Federal and State conservation initiatives over the years. Clyde is a true environmental hero, and I am proud that he had the opportunity to work with him.

It is citizens such as Mr. Brown whose dedicated efforts and outstanding accomplishments greatly benefit the environment and make our Nation better place for all Americans.

SALUTING GEORGE AND LOIS FERNAU AND FUTURES OF AMERICA

- Mr. TALENT. Mr. President, today I salute George and Lois Fernau of St. Louis, who are the founders of a very talented, very patriotic singing group, to the Futures of America.

The Fernaus are parents of four children, and something Mr. Fernau saw on television in the early 70s as he was about to take his daughter to softball practice disturbed him very deeply. He watched as a group of protesters burned the American flag. Mr. Fernau thought this was a slap in the face to those who fought to defend freedom under that flag and a desecration of an enduring symbol of freedom and democracy. He was inspired to do something to express his love for the country, so he asked his daughters after softball practice if they would be willing to be part of a singing group that would be a way to spread patriotic feeling through music. Thus, the Futures of America were born.

The mission of the Futures of America is to strongly encourage all Americans, but especially young people, to learn what they call the “M.V.P. P.’s of Life”: morals, values, principles and patriotism. They sing classic American songs such as The Battle Hymn of the Republic, Put On a Happy Face, God Bless America, songs written by Mr. Fernau, such as: Missouri: Our Home State, St. Louis, My Kind of Town, and You’re My Music. They have performed on radio and television, and have also released several albums of their music.

Since their inception in 1971, the Futures of America have kept up an ambitious and impressive schedule, traveling close to a million miles and performing over 2,500 times. They have sung for or participated in numerous activities, including two Presidents, an African king, and a host of Missouri’s State and local elected officials. They also sing at venues such as Air Force bases, parades, and conventions for groups such as the Knights of Columbus, the American Legion, and the Rotary Club.

The Futures of America also have the distinction of having performed before all 172 VA hospitals in America, warming the hearts of many veterans. I commend George and Lois Fernau and the Futures of America for their service to the community over the past 32 years. Their patriotism and strong moral values are a good example for young people to strive to share their accomplishments with my colleagues, and I wish them all the best for the future.

IN RECOGNITION OF THE 50TH ANNIVERSARY OF BIG BROTHERS BIG SISTERS OF SAGINAW BAY AREA

- Mr. LEVIN. Mr. President, I would like to recognize Major General Kuklok’s accomplishments and his devoted service to the Nation. Congratulations to him, his wife, Diane, and their two children, Nicole and Bryce, on the completion of a long and distinguished career.

A TRIBUTE TO MAJOR GENERAL KEVIN B. KUKLOK

- Mrs. FEINSTEIN. Mr. President, I rise to pay tribute to MG Kevin B. Kuklok, who is about to retire and return to private life after more than 35 years of selfless service to our Nation as a U.S. Marine. Major General Kuklok graduated from the University of North Dakota, where he received a Bachelor of Science degree in chemical engineering. He also received his master’s degree in business administration from the United States International University in San Diego, CA. He enrolled in the Platoon Leaders Class program in March 1965, and was commissioned a Second Lieutenant in the Marine Corps Reserve in August 1968.

He has served with numerous operational commands in billets ranging from staff officer to Commanding General. Some of these units were Marine Medium Lift Helicopter Squadrons 267 and 367; 2d Battalion, 7th Marines; Marine Attack Helicopter Squadron 169; Marine Air Group 46; and Marine Medium Helicopter Squadron 766.

He was Commanding Officer of Marine Medium Helicopter Squadron 764. He also served as Director of Readiness and Safety, 4th Marine Aircraft Wing, MRESFOR, New Orleans, LA.

Upon promotion to brigadier general, he assumed command as the commanding general, Reserve Marine Ground Task Force East, Camp Lejeune, NC.

Major General Kuklok is a veteran of Operations Desert Shield and Desert Storm. He also served as the command general, 4th Marine Aircraft Wing, Marine Corps Reserve, from September 1997 until August 2000.

In November 2001, General Kuklok was ordered back to active duty to support Operation Enduring Freedom, at which time he assumed his current duties as Assistant Commandant, Plans, Policies and Operations, his last active duty position.

Throughout his career as a U.S. Marine, Major General Kuklok has demonstrated uncompromising character, discerning wisdom, and a sincere, profound sense of duty to his country, his Corps, and especially to his marines and their families.

On behalf of my colleagues on both sides of the aisle, I wish to recognize Major General Kuklok’s accomplishments and his devoted service to the Nation. Congratulations to him, his wife, Diane, and their two children, Nicole and Bryce, on the completion of a long and distinguished career.

A TRIBUTE TO MAJOR GENERAL KEVIN B. KUKLOK

- Mrs. FEINSTEIN. Mr. President, I rise to pay tribute to MG Kevin B. Kuklok, who is about to retire and return to private life after more than 35 years of selfless service to our Nation as a U.S. Marine. Major General Kuklok graduated from the University of North Dakota, where he received a Bachelor of Science degree in chemical engineering. He also received his master’s degree in business administration from the United States International University in San Diego, CA. He enrolled in the Platoon Leaders Class program in March 1965, and was commissioned a Second Lieutenant in the Marine Corps Reserve in August 1968.

He has served with numerous operational commands in billets ranging from staff officer to Commanding General. Some of these units were Marine Medium Lift Helicopter Squadrons 267 and 367; 2d Battalion, 7th Marines; Marine Attack Helicopter Squadron 169; Marine Air Group 46; and Marine Medium Helicopter Squadron 766.

He was Commanding Officer of Marine Medium Helicopter Squadron 764. He also served as Director of Readiness and Safety, 4th Marine Aircraft Wing, MRESFOR, New Orleans, LA.

Upon promotion to brigadier general, he assumed command as the commanding general, Reserve Marine Ground Task Force East, Camp Lejeune, NC.

Major General Kuklok is a veteran of Operations Desert Shield and Desert Storm. He also served as the command general, 4th Marine Aircraft Wing, Marine Corps Reserve, from September 1997 until August 2000.

In November 2001, General Kuklok was ordered back to active duty to support Operation Enduring Freedom, at which time he assumed his current duties as Assistant Commandant, Plans, Policies and Operations, his last active duty position.

Throughout his career as a U.S. Marine, Major General Kuklok has demonstrated uncompromising character, discerning wisdom, and a sincere, profound sense of duty to his country, his Corps, and especially to his marines and their families.

On behalf of my colleagues on both sides of the aisle, I wish to recognize Major General Kuklok’s accomplishments and his devoted service to the Nation. Congratulations to him, his wife, Diane, and their two children, Nicole and Bryce, on the completion of a long and distinguished career.
to the members of Big Brothers Big Sisters for their years of dedication and service to the community.

Big Brothers Big Sisters volunteers provide stability for area youth by mentoring children and organizing exciting events. Their volunteer efforts, motivated by a strong personal and professional interest, have improved the lives of many in our community. I wish Bill Madia all the best in his future endeavors.

In 1952, 18 individuals united to form the board of directors for Big Brothers after receiving a grant from the Optimist Club of Saginaw. With the opening of a new office in Bay City in 1973, the organization officially changed its name to Big Brothers of Saginaw Bay Area, Inc.

In 1966, the Woman’s Council of Saginaw recognized the need for a Big Sisters program. The following year the Altrusa Club, a community service organization, sponsored and organized the project, and soon after, a local Big Sisters program was established. The two organizations joined forces on September 1, 1982, to form Big Brothers Big Sisters of Saginaw Bay Area, Inc., saving an estimated $15,000 to $20,000 in operating expenses annually. This money is used to enrich the lives of approximately 725 young people in Saginaw and Bay Counties.

I take great pleasure in recognizing the efforts of Big Brothers Big Sisters of Saginaw Bay Area as it celebrates its 50th anniversary. I have no doubt that this organization will continue to enrich the lives of local children. I know my Senate colleagues will join me in saluting the accomplishments of Big Brothers Big Sisters of Saginaw Bay Area and in wishing the group continued success in the future.

RECOGNIZING THE ACHIEVEMENTS OF DR. BILL MADIO

Mr. ALEXANDER. Mr. President, I wish to recognize the achievements of Dr. Bill Madio, President and CEO of UT-Battelle, and Director of Oak Ridge National Laboratory in Tennessee. Bill will be stepping down in August to take on the new position of Executive Vice President of Laboratory Operations at Battelle headquarters in Columbus, OH. Over the past three years Dr. Madio has contributed greatly to the Lab’s many successes, and I would like to thank him for his leadership and commitment to our State.

ORNL is the largest of the Department of Energy’s, Office of Science multi-program laboratories and to run a facility of its size is no simple task. Bill joined ORNL with more than 25 years of international experience in research and research management, including 15 years leading public and private research labs. He became the director of ORNL on April 1, 2000 and since then has continued the tradition of excellence at Oak Ridge.

Bill Madio is a visionary who delivers results. Under his leadership, construction of the Spallation Neutron Source was initiated. The SNS will produce the most intense pulsed neutron beams in the world and will be completed as scheduled. Bill also initiated and directed that this project is progressing both on schedule and within budget.

Dr. Madio is also responsible for a major renewal of the laboratory infrastructure. He has enabled the private capitalization of several new buildings that will house the Laboratory’s advanced computing assets. Bill also has been instrumental in building the Laboratory’s nanotechnology initiative, and the first of the DOE’s Nanoscience centers, the Center for Nanophase Materials Sciences, had its groundbreaking earlier this month.

Oak Ridge has an extensive history of linking with universities and with Bill’s guidance has expanded the use of these partnerships. Just recently, researchers of Oak Ridge, North Carolina State University, and University of Tennessee discovered how to tune the atomic-level zone of semi-conductor devices, the building blocks of computing chips. Additionally, he captured a leadership role in DOE’s computational science initiative for Oak Ridge by building a partnership with industry to develop the next generation machine and attracting private sector financing to rapidly build a new facility necessary to operate world-class supercomputer.

Bill understands the importance of science and the role that science development plays in our lives and in the future. He has continually taken the initiative to push forth all projects that are necessary to operate world-class supercomputers.

Outside of the laboratory in the Oak Ridge community, Bill Madio has done much to promote and maintain economic sustainability and has been a vigorous promoter of education. In fact, he has remained a strong supporter of funding for high school science laboratories and the University of Tennessee’s Academy for Math and Science.

The people of Oak Ridge Tennessee and this Nation have benefited from all his hard work and will continue to benefit from Bill Madio’s dedication as he continues his excellence as a member of the UT-Battelle Board of Directors. Although, he will be missed dearly in Tennessee, I am confident that he will continue to make a difference in the community of Oak Ridge in the best of luck in his future endeavors.

MEASURES HELD OVER/UNDER RULE

The following resolution was read, and held over, under the rule.

S. Res. 207. A resolution amending the Standing Rules of the Senate to provide that it is not in order in a committee to ask questions regarding a presidential nominee’s religious affiliation.
the Committee on Commerce, Science, and Transportation.

EC-3527. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Hayd, KS (Doc. No. 03-AE-35)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3528. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Hays, KS (Doc. No. 03-AE-49)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3529. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Cambridge, NE (Doc. No. 03-AE-50)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3530. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Amendment of Class E5 Air-
space; Tuscaloosa, AL (Doc. No. 03-ASO-07)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3531. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class D; A-4, E5 Airspace; Elizabeth City, NC (Doc. No. 03-ASO-06)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3532. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Rock Rapids, IA (Doc. No. 03-AE-28)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3533. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Muscatine, IA (Doc. No. 03-AE-59)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3534. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Sibely, IA (Doc. No. 03-AE-48)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3535. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Red Oak, IA (Doc. No. 03-AE-46)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3536. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Kaiser, MO (Doc. No. 03-AE-44)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3537. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Sibley, IA (Doc. No. 03-AE-45)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3538. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Ottumwa, IA (Doc. No. 03-AE-43)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3539. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Cambridge, NE (Doc. No. 03-AE-50)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3540. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Anna, TX (Doc. No. 03-AE-48)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3541. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Hays, KS (Doc. No. 03-AE-49)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3542. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Sibely, IA (Doc. No. 03-AE-48)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3543. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Red Oak, IA (Doc. No. 03-AE-46)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3544. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Pine River, MN (Doc. No. 03-AE-45)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.

EC-3545. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled ‘‘Modification of Class E Air-
space; Pocahontas, IA (Doc. No. 03-AE-45)’’
(RIN2120-AA66) received on July 28, 2003;
to the Committee on Commerce, Science, and Transportation.
received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-355. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled “Standard Instrument App-
roach Procedures; Miscellaneous Amend-
ments (26)” Amendment No. 3062 (Doc. No.
30373)” (RIN2120-AA66) received on July 28,
2003; to the Committee on Commerce, Science, and Transportation.

EC-356. A communication from the De-
puty Assistant Administrator for Operations, National Ocean Services Coastal Services Center, transmitting, pursuant to law, the report of a rule entitled “Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Harzortzamer Propellers with Aluminum Blades (Doc No. 96-ANE-40)” (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-357. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled “Airworthiness Directives: Harborzamer Propellers with Aluminum Blades (Doc No. 96-ANE-40)” (RIN2120-AA66) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-358. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a

EC-359. A communication from the Para-
legal Specialist, Federal Aviation Adminis-
tration, Department of Transportation, trans-
mitting, pursuant to law, the report of a
rule entitled “Standard Instrument App-
roach Procedures; Miscellaneous Amend-
ments (26)” Amendment No. 3062 (Doc. No.
30373)” (RIN2120-AA66) received on July 28,
2003; to the Committee on Commerce, Science, and Transportation.

EC-360. A communication from the De-
puty Assistant Administrator for Operations, National Ocean Services Coastal Services Center, transmitting, pursuant to law, the report of a rule entitled “Emergency Final Rule to Implement Meas-
ures to Protect Expansion of Pet Reserves Under the Northeast Multispecies Fishery Management Plan” (RIN2168-AQ72) received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-361. A communication from the Chair-
man, Federal Maritime Commission, trans-
mitting, pursuant to law, the report of the
Commission’s “Mighty Plan Project” covering
the Commission’s program activities through
fiscal year 2008; to the Committee on Com-
merce, Science, and Transportation.

EC-362. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the re-
port of a rule entitled “Safety Zones, Zon-
etry Zones and Drawbridge Operation Regu-
rations” (RIN1625-AA09) received on July 28,
2003; to the Committee on Commerce, Science, and Transportation.

EC-363. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the re-
port of a rule entitled “Safety Zones, Zon-
entry Zones and Drawbridge Operation Regu-
rations” (RIN1625-AA09) received on July 28,
2003; to the Committee on Commerce, Science, and Transportation.

EC-364. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the re-
port of a rule entitled “Safety Zones, Zon-
entry Zones and Drawbridge Operation Regu-
rations” (RIN1625-AA09) received on July 28,
2003; to the Committee on Commerce, Science, and Transportation.

EC-365. A communication from the Asso-
ciate Assistant Administrator for Manage-
ment, Ocean Services and Coastal Zone Man-
agement, National Ocean Services Coastal Services Center, transmitting, pursuant to law, the report of a rule entitled “Federal Register Notice—Coastal Services Center Board of Technical Assistance Program” received on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-366. A communication from the Acting
Managing Director, Office of Managing Di-
rector, Federal Communications Commis-
sion, transmitting, pursuant to law, the re-
port of the Commission’s “A Study of As-
essment and Collection of Regulatory Fees for Fiscal Year 2003” (MD Doc. No. 03-83) re-
ceived on July 28, 2003; to the Committee on Commerce, Science, and Transportation.

EC-367. A communication from the Assist-
ant Secretary, Legislative Affairs, Depart-
ment of State, transmitting, pursuant to the
Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more for Israil; to the Committee on Foreign Rela-
tions.

EC-368. A communication from the Assist-
ant Secretary, Legislative Affairs, Depart-
ment of State, transmitting, pursuant to the
Arms Export Control Act, the certification of a proposed manufacturing license agree-
ment for the manufacture of defense articles or defense services in the amount of $100,000,000 or more for Japen; to the
Committee on Foreign Relations.

EC-369. A communication from the Assist-
ant Secretary, Legislative Affairs, Depart-
ment of State, transmitting, pursuant to the
Arms Export Control Act, the certification of a proposed license for the export of de-
finite articles or defense services sold com-
mercially under a contract in the amount of $25,000,000 or more for Greece; to the Com-
mittee on Foreign Relations.

EC-370. A communication from the Secre-
try of Labor, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-371. A communication from the Chair-
man, Federal Housing Finance Board, trans-
mitting, pursuant to law, the report of the
Office of Inspector General for the period Oc-
tober 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC-372. A communication from the Audi-
tor of the District of Columbia, trans-
mitting, pursuant to law, a report entitled 
“Final Report of the District of Columbia’s Fiscal Year 2001 Revenue Estimates and Adopted Budget to the Council of the District of Columbia;” (RIN40000-0001) received on July 28, 2003; to the Committee on Governmental Affairs.

EC-373. A communication from the Board
Members, Merit Systems Protection Board, trans-
mitting, the Board’s Annual Report for fiscal year 2001; to the Committee on Gov-
ernmental Affairs.

EC-374. A communication from the Assis-
tant Secretary, Chief Financial Officer, De-
apartment of the Interior, transmitting, the
Department’s Annual Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-375. A communication from the Direc-
tor, Office of Personnel Management, trans-
mitting, pursuant to law, the report of a rule
entitled “Repeal of Dual Compensation Re-
ductions for Military Retirees” (RIN3006-
A191) received on July 28, 2003; to the Com-
mittee on Governmental Affairs.

EC-376. A communication from the Chair-
man, National Science Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC-377. A communication from the Audit-
or of the District of Columbia, trans-
mitting, pursuant to law, a report entitled 
“Sufficiency Review of the Water and Sewer Authority’s Fiscal Year 2002 Revenue Esti-
mates and Support of $100,000,000 in Commer-
cial Paper Notes”; to the Committee on Gov-
ernmental Affairs.

EC-378. A communication from the Senior Vice President, Chief Financial Officer, Po-
tomac Electric Power Company, trans-
mitting, pursuant to law, the Company’s Bal-
cance Sheet as of December 31, 2002; to the Committee on Governmental Affairs.

EC-379. A communication from the Execu-
tive Director, Interstate Commission on the Potomac River Basin, transmitting, pursu-
ting to law, the Company’s Semiannual Re-
port for the period October 1, 2001 through March 31, 2002; to the Committee on Gov-
ernmental Affairs.

EC-380. A communication from the Gen-
eral Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of information confirming the appointment of a Director, Office of Management and Budget, received on July 23, 2003; to the Committee on Governmental Affairs.

EC-381. A communication from the Gen-
eral Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of information confirming the appointment of a Director, Office of Management and Budget, received on July 23, 2003; to the Committee on Governmental Affairs.

EC-382. A communication from the De-
partment of Health and Human Services, Center for Medicare and Medicaid Services, transmitting, pursuant to law, the report of a rule entitled “Prevaling Rate Systems; Change in the Survey Cycle for the Pennington, SD, Nonappropriated Fund Wage Area” (RIN3006-
A30) received on July 28, 2003; to the Com-
mmittee on Governmental Affairs.

EC-383. A communication from the De-
partment of Health and Human Services, Center for Medicare and Medicaid Services, transmitting, pursuant to law, the report of a rule entitled “Ophthalmic Drug Products for Over-the-Counter Human Use : Final Monograph; Technical Amendment No. 40) received on July 28, 2003; to the Committee on Governmental Affairs.

EC-384. A communication from the Direc-
tor, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Preliminary Draft of the Final Report on Governmental Affairs.”

EC-385. A communication from the Direc-
tor, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Preliminary Draft of the Final Report on Governmental Affairs.”
The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-247. A resolution adopted by the Senate of the General Assembly of the State of Pennsylvania relative to tariff rate quotas for dolphin protein; to the Committee on Finance.

SENATE RESOLUTION

Whereas, studies have shown that approximately 80 percent of prison inmates are afflicted with mental health problems, addiction and drug and alcohol problems; and

Whereas, studies have confirmed that 33 percent of all criminal justice costs are related to substance abuse; and

Whereas, data indicates that 80 percent of State prisoners will be released in the next 12 months and studies demonstrate that approximately 50 to 60 percent of inmates released from prison will reengage in criminal activity; and

Whereas, in 1999 approximately 3,773,600 American adults were in prison and nearly 713,000 were on parole with minimal substance abuse treatment; and

Whereas, research has proven that rehabilitation centers sharply reduce rates of recidivism, thereby ending a vicious and socially destructive cycle of entry and exit from prison; and

Whereas, by providing funds to establish drug and alcohol rehabilitation programs in State and county prisons, the State will be able to reduce the judicial and operational costs associated with repeat offenders and recidivism; and

Whereas, current law prohibits the use of Federal funds for mental health and mental retardation treatment programs in prisons under 42 CFR §435.1099 (relating to definitions relating to institutional status); and

Whereas, current law prohibits the use of Federal Medicaid funds for mental health and mental retardation treatment programs in prisons under 42 CFR §435.1099 (relating to definitions relating to institutional status); and

Whereas, treatment should lead to a decrease in recidivism among prisoners afflicted with mental health and mental retardation problems: Therefore be it

Resolved, that the Senate of the Commonwealth of Pennsylvania hereby memorialize the President and Congress of the United States to amend 42 CFR §435.1099 to permit the use of Federal Medicaid funds for mental health and mental retardation programs and drug and alcohol rehabilitation programs and thereby afford states throughout the nation the ability to reduce recidivism and lower crime through prison administered treatment and rehabilitation programs; and be it further

Resolved, that copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the United States Senate, the Secretary of Health and Human Services, the United States Customs Service, the United States Department of Agriculture, the United States Food and Drug Administration and the members of the Michigan Congressional Delegation.

POM-248. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Federal Medicare prescription drug benefit plan; to the Committee on Finance.

HOUSE RESOLUTION NO. 317

Whereas, the Commonwealth of Pennsylvania has been provided Federal medical assistance coverage for low-income senior citizens for almost 20 years; and

Whereas, State Lottery Fund revenues and tobacco settlement funds support the Pharmaceutical Assistance Contract for the Elderly (PACE) and the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier (PACE-NET) programs; and

Whereas, these programs have saved and will continue to save millions of dollars in costs as a result of hospitalization and nursing home expenditures; and

Whereas, the technology that makes possible the ultrafiltration process that separates proteins and other components of milk was not fully developed when the General Agreement on Tariffs and Trade (GATT) was finalized in 1994; as a result, there are almost no restrictions on the importation of MPCs and these is causing serious damage to the domestic dairy industry; and

Whereas, the quotas set under GATT in 1994 are not comprehensive enough for the forms in which some dairy products are imported today; these imports are known to blend dairy proteins for the purpose of circumventing existing tariff rate quotas; and

Whereas, further, farm groups strongly believe the dairy protein blends are being incorrectly classified by the United States Customs Service and this improper classification has also created a trade loophole that encourages importers to circumvent tariffs on certain dairy products which underwrite food safety standards and cause an economic hardship for American agriculture; and

Whereas, Congress has introduced legislation to establish tariff rate quotas for MPCs and the enactment of legislation to close this loophole American agriculture will be able to compete on a more equal basis; the dairy benefits, to our nation's economy, and the domestic dairy industry will strengthen a vitally important industry and restore the stability of the marketplace.

Now therefore, be it

Resolved, that the Wayne County Commission on this 5th day of June, 2003, does hereby urge the Congress of the United States to enact legislation to provide for the importation of MPCs for dry milk protein concentrates that are equivalent to the import quotas currently in place on other dairy products; and be it further

Resolved, that the Wayne County Commission urge the United States Customs Service to work for greater enforcement of food safety standards by reconsidering the classification of dairy products, especially those containing milk protein concentrates; and be it further

Resolved, that copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Senate, the United States Department of Agriculture, and the members of the Michigan Congressional Delegation.

RESOLUTION NO. 2003-283

Whereas, the domestic dairy industry has been significantly impacted in recent years by the rising use of dry mild protein concentrates (MPCs) and is very concerned about the effect that imported MPCs are having; the increasing use of these key components in many dairy products and the fact that technology that is tagged behind trade policy is a key part of American agriculture; and
Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation that would coordinate Federal and state programs and policies related to global warming, biodiversity, and other environmental issues that affect the Commonwealth. The Senate further recommends that copies of this resolution be transmitted to the President of the United States, the Speaker of the House of Representatives, and each member of the Senate and House of Representatives of the General Assembly of the Commonwealth of Pennsylvania.

POM-252. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to biological invasions by nonnative species; to the Committee on Environmental Policy.

Resolved, That the Senate of the Commonwealth of Pennsylvania urge Congress to take all the necessary steps to enact into law the Veterans Health Care Funding Guarantee Act of 2003, and make veterans health care mandatory to ensure that veterans have access to timely, quality health care; and be it further
Resolved, That copies of this resolution be transmitted to the president of each house of Congress and to each member of Congress from Pennsylvania.

POM-253. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to increased security measures; to the Committee on Governmental Affairs.

Resolved, That copies of this resolution be transmitted to the president of each house of Congress and to each member of Congress from Pennsylvania.

POM-254. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to increased security measures for the United States Postal Service; to the Committee on Governmental Affairs.

Resolved, That copies of this resolution be transmitted to the president of each house of Congress and to each member of Congress from Pennsylvania.

REPORTS OF COMMITTEES
The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 598. A bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention of such skilled personnel into the strategic and performance management systems of Federal agencies (Rept. No. 108-119).
By Mr. McCaIN, from the Committee on Commerce, Science, and Transportation, with amendments and an amendment to the title:


By Mr. COCHRAN, from the Committee on Agriculture, with an amendment in the nature of a substitute and an amendment to the title: H.R. 3894. A bill to continue to provide for the participation of the United States in international organizations.

An amendment in the nature of a substitute to H.R. 1904. A bill to improve the administration of the Federal-State programs for the acquisition, management, and operation of Federal lands, to increase Federal-State revenues from leases and other Federal-State activities on Federal lands, and for other purposes (Rept. No. 108-122).

By Mr. GREGG, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1248. A bill to reauthorize the Black Colleges and Universities Week, to designate the week of September 15 through 21, 2003, as Black Colleges and Universities Week, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. 1177. A bill to provide for the authorization of appropriations for fiscal years 2004 and 2005 for the improvement of the safety, security, and efficiency of the Nation's air transportation system by the Federal Aviation Administration, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. 274. A resolution expressing the sense of the Senate that the President should designate September 14, 2003, as "National Historic Black Colleges and Universities Week".

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 250. A bill to prohibit discrimination on the basis of genetic information with respect to employment, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1904. A bill to improve the administration of the Federal-State programs for the acquisition, management, and operation of Federal lands, to increase Federal-State revenues from leases and other Federal-State activities on Federal lands, and for other purposes (Rept. No. 108-122).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. 1177. A bill to provide for the authorization of appropriations for fiscal years 2004 and 2005 for the improvement of the safety, security, and efficiency of the Nation's air transportation system by the Federal Aviation Administration, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. 274. A resolution expressing the sense of the Senate that the President should designate September 14, 2003, as "National Historic Black Colleges and Universities Week".

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. 250. A bill to prohibit discrimination on the basis of genetic information with respect to employment, and for other purposes.
CONGRESSIONAL RECORD — SENATE

July 31, 2003

Post: U.S. Ambassador and Permanent Representative to the organization for Economic Cooperation and Development (OEC); Contributions, amount, date, donee:
1. Self, Constance A. Morella, None.
2. Spouse, Anthony C. Morella $500, 8/2/02; Friendly purposes; to the Committee on the Judiciary.
3. Children and Spouses: Paul and Mary Morella, none; Mark and Teresa Morella, none; Peter and Hilary Sasso, none.
5. Brothers: Austin Albanese, $500, 10/11/02; $500, 1/19/02; $150, 6/30/02; $250, 4/15/02; $400, 4/17/01; $100, 10/17/00; $150, 6/4/00; $50, 1/8/00; $300, 11/10/99; $200, 5/22/99; $50, 5/22/99; Friends of Constance A. Morella.
6. John Morella, $200, 10/23/02; $50, 2/23/02; $250, 4/25/01; $100, 10/23/00; $150, 6/10/00; $100, 12/19/99; Friends of Constance A. Morella.

George H. Walker, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: George Herbert Walker, III.

Post: Ambassador to Hungary.

Contributions, amount, date, donee:
1. Self, $1,000, 5-Mar-99, Governor George W. Bush, Presidential Exploratory Committee, Inc.; $1,000, 25-Mar-99, Hulsol for Congress; $500.00, 29-Apr-99, Governor George W. Bush; Presidential Exploratory Committee, Inc.; $500.00, 3-May-99, Ashcroft 2000; $1,000.00, 28-Jun-99, McNairy for Congress; $250.00, 3-Dec-99, Friends of Roy Blunt; $250.00, 15-Nov-00, friends of Boyd and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes; to the Committee on Veterans Affairs Medical Center in Prescott Valley, Arizona, as the "Bob Stump Department of Veterans Affairs Medical Center": to the Committee on Veterans Affairs.

By Mr. LEAHY (for himself, Mr. FORDS):

S. 1513. A bill to establish and strengthen the Post-9/11 GI Bill to provide a tuition assistance benefit to eligible veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion or other use of transfusion equipment; and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1511. A bill to designate the Department of Veterans Affairs Medical Center in Prescott Valley, Arizona, as the "Bob Stump Department of Veterans Affairs Medical Center": to the Committee on Veterans Affairs.

By Mr. HAGEL (for himself, Mr. AKAKA, and Mr. JEFFORDS):

S. 1507. A bill to protect privacy by limiting the access of the government to library, bank, and other personal records for foreign intelligence and counterintelligence purposes; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. SUNUNU, and Mrs. DOLLE):

S. 1508. A bill to address regulation of secondary mortgage markets and housing and other costs, in the event of a housing crisis, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COLEMAN:

S. 1509. A bill to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion or other use of transfusion equipment; and for other purposes; to the Committee on Veterans Affairs.

By Mr. REID (for himself and Mr. ENZI):

S. 1517. A bill to revoke and Executive Order relating to procedures for the consideration of claims of non-United States persons under a privilege against disclosure of Presidential records; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. CAMPBELL):

S. 1516. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the Commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability and reliability of water projects and other uses through control of salt cedar and Russian olive; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. GRAHAM of Florida):

S. 1518. A bill to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation; and for other purposes; to the Committee on Health, Education, Labor and Pensions.

By Mr. BINGAMAN (for himself, Mrs. LANDRIEU, Mrs. LINCOLN, Mr. KERRY, Mrs. CLINTON, Mrs. MURRAY, Mr. LAUTENBERG, and Ms. MIKULSKI):

S. 1519. A bill to amend title XIX of the Social Security Act to extend medicare cost-sharing for qualifying individuals through 2004; to the Committee on Finance.

By Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, and Mr. ROCKERFELLER):

S. 1520. A bill to amend the National Security Act of 1947 to reorganize and improve the leadership of the intelligence community of the United States, to provide for the enhancement of the counterterrorism activities of the United States Government; and for other purposes; to the Select Committee on Intelligence.

By Mr. REID (for himself and Mr. ENZI):

S. 1521. A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. SONDORS):

S. 1522. A bill to provide new human capital flexibility with respect to the GAO, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SMITH (for himself, Mr. JEFFORDS, and Mr. CONRAD):
S. 1523. A bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in a rehabilitation program and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental disability, to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. ALLEN, Mr. Bunning, Mrs. Dole, and Mr. KYL):

S. 1524. A bill to amend the Internal Revenue Code to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes, to the Committee on Finance.

By Mr. KENNEDY:

S. 1525. A bill to require the Federal Communications Commission to report to Congress regarding the ownership and control of broadcast stations owned by publicly owned communities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1526. A bill to amend the Internal Revenue Code to provide for the treatment of Indian tribal governments as State governments for purposes of issuing tax-exempt governmental bonds, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. DODD, Mr. CHAFEE, Ms. COLLINS, Mr. KERRY, Mr. SCHUMER, Mr. REED, and Mr. LIEBERMAN):

S. 1527. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1528. A bill to establish a procedure to treat an individual with a disability, in- cluding a substance abuse problem, who is participating in a rehabilitation program and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental disability, to the Committee on Finance.

By Mr. LEVIN (for himself and Ms. COLLINS):

S. 1529. A bill to amend section 226 of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in a rehabilitation program and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental impairment; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. LIEBERMAN):

S. 1530. A bill to provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN:

S. 1531. A bill to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association a 200-acre tract of land in the State of Arkansas for use as a cemetery; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself and Mr. HATCH):

S. 1532. A bill to ensure that the goals of the Dietary Supplement Health and Education Act of 1994 are met by authorizing appropriations to fully enforce and implement such Act and the amendments made by such Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. VOINOVICH, Mr. SARBANES, Ms. SNOWE, Mr. EFFORDS, Mr. LEVIN, and Mr. HARKIN):

S. 1533. A bill to amend the Federal Water Pollution Control Act to establish a National Clean and Sage Water Fund and to au-thorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to pay for projects to improve the recovery of waters of the United States from damage resulting from violations of that Act and the Safe Drinking Water Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DASCHLE:

S. 1534. A bill to provide for the payment of amounts owed to Indian tribes and individual Indian money account holders; to the Committee on Indian Affairs.

By Ms. CANTWELL (for herself and Mr. ENZI):

S. 1535. A bill to prevent the crime of ident-ify theft, mitigate the harm of individuals throughout the Nation who have been victimized by identify theft, and for other pur-poses; to the Committee on the Judiciary.

By Ms. REID:

S. 1536. A bill to limit the closing and con-solidation of certain post offices in rural communities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEVIN (for himself and Ms. COLLINS):

S. 1537. A bill to amend title 23, United States Code, to provide appropriate funds to facilitate international and interstate trade; to the Committee on Environment and Public Works.

By Mr. EDWARDS (for himself and Mr. EFFORDS):

S. 1538. A bill to provide that the Secretary of the Treasury to mint coins in commemora-tion of certain protection from litigation excesses and to establish a commission on defined benefit plans; to the Committee on Finance.

By Ms. CANTWELL (for herself and Mr. REED):

S. 1539. A bill to provide for the payment of amounts owed to Indian tribes and invid-idual Indian money account holders; to the Committee on Indian Affairs.

By Mr. MURkowski:

S. 1540. A bill to provide for the payment of amounts owed to Indian tribes and invid-idual Indian money account holders; to the Committee on Indian Affairs.

By Ms. CANTWELL (for herself and Mr. REED):

S. 1541. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; to the Committee on Indian Affairs.

By Mr. DASCHLE:

S. 1542. A bill to provide for the payment of amounts owed to Indian tribes and individual Indian money account holders; to the Committee on Indian Affairs.

By Mr. EDWARDS:

S. 1543. A bill to provide for the payment of amounts owed to Indian tribes and individual Indian money account holders; to the Committee on Indian Affairs.

By Ms. CANTWELL (for herself, Mr. ENZI, Mr. BINGAMAN, and Mr. HARKIN):

S. 1544. A bill to amend the act of October 16, 1986, to increase the amount available for enforcement of the provisions of the Immigration Act of 1990; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. DURBIN, Mr. Lugar, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. CRAPo, and Mr. GRASSLEY):

S. 1545. A bill to amend the illegal immigra-tion reform and immigrant responsibility act of 1996 to determine State residency for higher educa-tion purposes and to authorize the can-cellation of removal and adjustment of status of certain alien students; to provide long-term United States residents; to the Com-mitee on the Judiciary.

By Mr. MCConNeLL (for himself and Mr. LIEBERMAN):

S. 1546. A bill to provide small businesses with certain protection from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Com-mittee on the Judiciary.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1547. A bill to amend title XXI of the So-cial Security Act to make a technical correc-tion with respect to the definition of qualifying State; considered and passed.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. FRIST, Mr. DASCHLE, Mr. DOMENICI, Mr. BINGAMAN, Mr. INHOFE, Mr. EFFORDS, Mr. THOMAS, Mr. VOINOVICH, Mr. CONRAD, Mrs. LINCOLN, Mr. COLEMAN, Mr. DORGAN, Mr. BOND, Mr. HARKIN, Mr. DAYTON, Mr. DURBIN, Mr. TALENT, Mr. NELSON of Nebraska, and Mr. BROWNBACK):

S. 1548. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the reduction of renewable fuels and to sim-plify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for herself and Mr. ROBERTS):

S. 1549. A bill to amend the Richard B. Russell National School Lunch Act to phase out price lunches and breakfasts by phasing in an increase in the income eligi-bility guidelines for free lunches and break-fasts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GREGG:

S. 1550. A bill to change the 30-year treasury bond rate to a corporate rate, and to establish a commission on defined benefit plans; to the Committee on Finance.

By Mr. MCCAIN:

S. 1551. A bill to provide educational opportu-nities for disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself and Mr. STEPHENS):

S. 1552. A bill to amend title 18, United States Code, and the Foreign Intelligence Surveillance Act of 1978 to strengthen pro-tections of civil liberties in the exercise of the foreign intelligence surveillance authori-ties under Federal law, and for other pur-poses; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 1553. A bill to amend title 18, United States Code, to provide for assistance to State and local officials in protecting children from online risks and dangers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for himself and Mr. DURBIN):

S. Res. 207. A resolution amending the Standing Rules of the Senate to provide that bank regulators, in order as in the Senate, may ask ques-tions regarding a presidential nominee’s reli-gious affiliation; submitted and read.

By Mr. CROCKER:
By Mr. AKAKA:
S. Res. 208. A resolution expressing the sense of the Senate in support of improving American defenses against the spread of infection by terrorists to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. WARNER, Ms. STABENOW, and Mr. DODD):
S. Res. 209. A resolution recognizing and honoring Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. DODD, and Mr. ALMENDARE):
S. Res. 210. A resolution expressing the sense of the Senate that supporting a balance between work and personal life is in the best interest of national worker productivity, and that the President should issue a proclamation designating October as "National Work and Family Month," to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. BIDEN):
S. Res. 212. A resolution welcoming His Holiness the Fourteenth Dalai Lama and recognizing his commitment to non-violence, to the Committee on Foreign Relations.

By Mr. SESSIONS (for himself, Mr. KYL, Mrs. FEINSTEIN, Mr. CRAIG, Mr. GRAHAM of South Carolina, Mr. CHAMBLISS, Mr. FEINGOLD, Mr. BYRD, Mr. DORGAN, Mr. KOHL, Mr. DAYTON, and Ms. MIKULSKI):
S. Res. 213. A resolution designating August 2003 as "National Missing Adult Awareness Month," to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. CORNYN, Ms. SNOWE, Mr. BROWNBACK, Mr. CHAMBLISS, Mr. BOND, Ms. COLLINS, Mr. ENSIGN, Mr. DASCHEL, Mr. NICKLES, Mr. LAUTENBERG, Mr. BIDEN, Mr. INOUYE, Mrs. CLINTON, Mr. ALARD, Mrs. MURRAY, Mr. DODD, Ms. LANDRIEU, Mr. KENNY, and Mr. CONRAD):

By Mr. FRIST (for himself and Mr. DASCHEL):
S. Res. 215. A resolution welcoming Lance Armstrong for winning the 2003 Tour de France, to the Committee on Commerce.

S. Res. 216. A resolution to authorize representation by the Senate Legal Counsel in the case of Wagner v. United States Senate Committee on the Judiciary, et al. considered and agreed to.

ADDITIONAL COSPONSORS

S. 189
At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 299
At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 299, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 465
At the request of Mrs. MURRAY, the name of the Senator from Rhode Island (Mr. CHAFFEE) was added as a cosponsor of S. 465, a bill to amend title XVIII of the Social Security Act to expand Medicare coverage of certain self-injected biologicals.

S. 525
At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 525, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 595
At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 720
At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 720, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

S. 736
At the request of Mr. ENSIGN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from South Dakota (Mr. DASCHEL) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 846
At the request of Mr. SMITH, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 947
At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 947, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low income individuals infected with HIV.

S. 859
At the request of Mr. CORZINE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 859, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

S. 884
At the request of Ms. LANDRIEU, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rent-al-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 950
At the request of Mr. ENZI, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 982
At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1053
At the request of Mr. DASCHEL, his name was added as a cosponsor of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 1127
At the request of Mr. KERRY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1127, a bill to amend the United States Code, to permit Department of Veterans Affairs pharmacies to dispense medications on prescriptions written by private practitioners to veterans who are currently awaiting their first appointment with the Department for medical care, and for other purposes.

S. 1150
At the request of Mr. BAUCUS, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1150, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.
At the request of Mr. Bingaman, the names of the Senator from Iowa (Mr. Harkin), the Senator from Illinois (Mr. Durbin) and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 1142, a bill to provide disadvantaged children with access to dental services.

At the request of Mr. Hatch, the names of the Senator from Vermont (Mr. Leahy), the Senator from Massachusetts (Mr. Kennedy), the Senator from Ohio (Mr. DeWine) and the Senator from Nevada (Mr. Reid) were added as cosponsors of S. 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

At the request of Mr. Nelson of Nebraska, the names of the Senator from South Carolina (Mr. Hollings) and the Senator from Montana (Ms. Salazar) were added as cosponsors of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

At the request of Mr. Corzine, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 1265, a bill to limit the applicability of the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Act of 2004-2005, published in the Federal Register on May 30, 2003.

At the request of Mrs. Clinton, her name was added as a cosponsor of S. 1283, a bill to require advance notification of Congress regarding any action proposed to be taken by the Secretary of Veterans Affairs in the implementation of the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, and for other purposes.

At the request of Mr. Akaka, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

At the request of Mr. Brownback, the name of the Senator from Illinois (Mr. Fitzgerald) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

At the request of Mr. Leahy, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of S. 1323, a bill to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months.

At the request of Mr. Corzine, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 1344, a bill to amend the Electronic Fund Transfer Act to require additional disclosures relating to exchange rates in transfers involving international transactions, and for other purposes.

At the request of Mr. Akaka, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 1390, a bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.

At the request of Mr. Gregg, the name of the Senator from Arizona (Mr. Kyl) was added as a cosponsor of S. 1397, a bill to prohibit certain abortion-related discrimination in governmental activities.

At the request of Mr. Hatch, the name of the Senator from Mississippi (Mr. Lott) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

At the request of Mrs. Lincoln, the names of the Senator from Hawaii (Ms. Inouye), the Senator from West Virginia (Mr. Rockefeller), the Senator from New York (Mrs. Clinton), the Senator from Delaware (Mr. Biden), the Senator from South Dakota (Mr. Johnson), the Senator from Washington (Mrs. Murray), the Senator from New York (Mr. Schumer), the Senator from Arkansas (Mr. Pryor), the Senator from Vermont (Mr. Leahy), the Senator from Maryland (Ms. Mikulski), the Senator from Hawaii (Ms. Inouye), the Senator from Washington (Ms. Cantwell), the Senator from New Jersey (Mr. Corzine), the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Graham), the Senator from South Dakota (Mr. Daschle), the Senator from Massachusetts (Mr. Kennedy), the Senator from Connecticut (Mr. J. Jeffords), the Senator from Florida (Mr. Nelson), the Senator from Louisiana (Ms. Landrieu), the Senator from Wisconsin (Mr. Kohl), the Senator from New Jersey (Mr. Lautenberg), the Senator from Massachusetts (Mr. Kerry), the Senator from Connecticut (Mr. Dodd), the Senator from North Dakota (Mr. Conrad), the Senator from Louisiana (Mr. Breaux), the Senator from Montana (Mr. Baucus), the Senator from Minnesota (Mr. Dayton), the Senator from New Mexico (Mr. Bingaman), the Senator from Connecticut (Mr. Lieberman), the Senator from Nevada (Mr. Reid), the Senator from Nebraska (Mr. Nelson), the Senator from North Dakota (Mr. Dorgan) and the Senator from North Carolina (Mr. Edwards) were added as cosponsors of S. 1434, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

At the request of Mr. McCain, the name of the Senator from Hawaii (Ms. Inouye) was added as a cosponsor of S. 1459, a bill to provide for reform of management of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and for other purposes.

At the request of Mr. Sasser, the name of the Senator from Hawaii (Ms. Inouye) was added as a cosponsor of S. 1470, a bill to establish the Financial Literacy and Education Coordination Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers.

At the request of Mrs. Clinton, her name was added as a cosponsor of S. 1481, a bill to prohibit the application of the trade authorities procedures with respect to implementing bills that contain provisions regarding the entry of aliens.

At the request of Mr. Kennedy, the name of the Senator from Washington (Mrs. Murray) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

At the request of Mr. Chambliss, the name of the Senator from Georgia (Mr. Miller) was added as a cosponsor of S. 1493, a bill to promote freedom, fairness, and economic opportunity by repealing the estate tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.
At the request of Mr. BROWNBACK, the Senator from Kansas (Mr. BROWNBACK) for military personnel.

on the child tax credit and on tax relief for the disabled. I urge my colleagues to support this legislation when it comes before the Senate.

At the request of Mr. JOHNSON, the names of the Senator from New York (Mr. SCHUMER), the Senator from Texas (Mr. CORNYN), the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 200, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel.

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. DeWINE) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine famine of 1932-33.

At the request of Mr. BROWNBACK, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from South Carolina, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Oregon (Mr. WYDEN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nebraska (Mr. NELSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 201, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the Patriot Act.

At the request of Mr. JOHNSON, the names of the Senator from New York (Mr. SCHUMER), the Senator from Texas (Mr. CORNYN), the Senator from Nebraska (Mr. HAGEL) and the Senator from South Carolina, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Oregon (Mr. WYDEN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Nebraska (Mr. NELSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 203, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the Patriot Act.

At the request of Mr. CAMPBELL, the name of the Senator from Ohio (Mr. DeWINE) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of amendment No. 1405 in support of the amendment to S. 1507. A bill to protect privacy by limiting the access of the government to library, bookseller, and other personal information under the Foreign Intelligence Surveillance Act and related foreign intelligence authority.

I am pleased that several of my distinguished colleagues—Senators BINGaman, MAN, CANTWELL, DURBIN, WYDEN, CORZINE, AKAKA, and JEFFORDS—have joined me as original cosponsors of this important legislation.

I and millions of other patriotic Americans love our country and support our military men and women in their difficult missions abroad, but worry about the fate of our Constitution here at home.

Much of our Nation’s strength comes from our constitutional liberties and respect for the rule of law. That is what has kept us free for our two and a quarter century history. Our constitutional freedoms, our American values, are what make our country worth fighting for in the fight against terrorism.

Here at home, there is no question that the FBI needs ample resources and legal authority to prevent future acts of terrorism. But we went too far when it comes to the government’s access to personal information about law-abiding Americans.

Even though in the end I opposed the Patriot Act, there were several provisions that I did support. For example, Congress was right to expand the category of business records that the FBI could obtain by subpoena pursuant to the Foreign Intelligence Surveillance Act. Prior to the Patriot Act, the FBI could seek a court order to obtain only telephone records—such as airline, hotel, and car rental records—and records maintained by storage facilities. The Patriot Act allows any business records to be subpoenaed. I don’t quibble with that change.

But what my colleagues and I do find problematic—and an increasing number of Americans who value their privacy and First Amendment rights agree with us—is that the current law allows the FBI broad, almost unfettered access to personal information about law-abiding Americans who have no connection to terrorism or spying.

Section 215 of the Patriot Act requires the FBI to show in an application to the court for a subpoena that the documents are ‘‘relevant to an international terrorism or foreign intelligence investigation. There is no requirement that the FBI make a showing of individualized suspicion that the documents relate to a suspected terrorist or spy.

In other words, under current law, the FBI could serve a subpoena on a library for all the borrowing records of its patrons or on a bookseller for the
purchasing records of its customers simply by asserting that they want the records for a terrorism investigation.

During the last year, librarians and booksellers have become increasingly concerned by the potential for abuse of this new authority. I was pleased to stand with the American Booksellers Association and the Free Expression Network a little over a year ago when we first started to raise these concerns.

Librarians and booksellers are concerned that under the Patriot Act, the FBI could seize records from libraries and booksellers in order to monitor what books Americans have purchased or borrowed, or who has used a library’s or bookstore’s internet-computer stations, even if there is no evidence that the person is a terrorist or spy, or has any connection to a terrorist or spy.

These concerns are so strong, that some Americans across the country have taken the unusual step of destroying records of patrons’ book and computer use, as well as posting signs on computer stations warning patrons that whatever they read or access on the internet could be monitored by the Federal Government.

As a librarian in California said, “We felt strongly that this had to be done. . . . The government has never had this kind of power before. It feels like Big Brother.”

And as the executive director of the American Library Association said, “This law is dangerous. . . . I read murder mysteries—does that make me a murder spy? What do you mean I’m a spy? There’s no clear link between a person’s intellectual pursuits and their actions.”

The American people do not know how many or what kind of requests federal law enforcement agencies have made for library records under the Patriot Act. The Justice Department refuses to release that information to the public.

But in a survey released by the University of Urbana-Champaign, about 550 libraries around the nation reported having received requests from Federal or local law enforcement during the past year. About half of the libraries said they complied with the law enforcement request, and another half indicated that they had not.

Americans don’t know much about these incidents, because the law also contains a provision that prohibits anyone who receives a subpoena from disclosing that fact to anyone.

David Schwartz, president of Harry W. Schwartz Bookshops, the oldest and largest independent bookseller in Milwaukee, said at Urbana-Champaign, about 550 libraries around the nation reported receiving requests from Federal or local law enforcement during the past year. About half of the libraries said they complied with the law enforcement request, and another half indicated that they had not.

Afraid to read books, terrified into silence. Is that the America we want? Is that the America where we’d like to live? I don’t think so. And I hope my colleagues will agree.

It is time to reconsider those provisions of the Patriot Act that are un-American and, frankly, un-patriotic.

Bu my concerns with the Patriot Act go beyond library and bookseller records. Under section 215 of the Patriot Act, the FBI could seek any records or computer sign-in logs that the FBI believes pertain to a suspected terrorist.

My bill will amend section 215 of the Patriot Act. Part of this section relates to the production of records maintained by electronic communications providers. Libraries or books stores with internet access for customers could be deemed “electronic communication providers” and therefore be subject to a request by the FBI under its administrative subpoena authority.

As I mentioned earlier, some librarians are so concerned about the potential for abuse by the FBI that they have taken the unusual step of destroying records or computer sign-in logs—documents that pose serious potential for abuse. The books we read could be terrified into silence.”

The Library, Bookseller, and Personal Records Privacy Act is a reasonable solution. It would restore a pre-Patriot Act requirement that the FBI make a factual, individualized showing that the records sought pertain to a suspected terrorist. My bill will not prevent the FBI from doing its job. My bill recognizes that the post-September 11 world is a different world. There are circumstances when the FBI should legitimately have access to library, bookseller, or other personal information.

I would like to take a moment to explain how the safeguards in my bill would be applied. Suppose the FBI is conducting an investigation of an international terrorist organization. It has information that suggested members of the group live in a particular neighborhood. The FBI would like to serve a subpoena on the library in the suspects’ neighborhood.

Under current law, the FBI could decide to ask the library for all records concerning anyone who has ever borrowed a book or used a computer, and what books were borrowed, simply by asserting that the documents are sought for a terrorism investigation. But under my bill, the FBI could not do so. The FBI would have to set forth specific and articulable facts giving reason to believe that the person to whom the records pertain is a suspected terrorist. The FBI could subpoena only those library records—such as borrowing records or computer sign-in logs—that pertain to the suspected terrorists.

The FBI could not obtain library records concerning individuals who are not suspected terrorists.

So, under my bill, the FBI can only obtain documents that it legitimately needs, but my bill would also protect the privacy of law-abiding Americans. I might add, that if, as the Justice Department says, the FBI is using its Patriot Act powers in a responsible manner, does not seek the records of law-abiding Americans, and only seeks the records of suspected terrorists or suspected spies, then there is no reason for Congress to object to my bill.

The second part of the bill would address privacy concerns with another Federal law enforcement power expanded by the Patriot Act—the FBI’s national security letter authority, or what is sometimes referred to as “administrative subpoena authority.” Because the FBI does not need court approval to use this power.

As I mentioned earlier, some librarians are so concerned about the potential for abuse by the FBI that they have taken the unusual step of destroying records or computer sign-in logs—documents that pose serious potential for abuse.

The American people do not know how many or what kind of requests Federal law enforcement agencies have made for library records under the Patriot Act. The Justice Department refuses to release that information to the public.

In a survey released by the University of Urbana-Champaign, about 550 libraries around the nation reported receiving requests from Federal or local law enforcement during the past year. About half of the libraries said they complied with the law enforcement request, and another half indicated that they had not.

Americans don’t know much about these incidents, because the law also contains a provision that prohibits anyone who receives a subpoena from disclosing that fact to anyone.

David Schwartz, president of Harry W. Schwartz Bookshops, the oldest and largest independent bookseller in Milwaukee, said at Urbana-Champaign, about 550 libraries around the nation reported receiving requests from Federal or local law enforcement during the past year. About half of the libraries said they complied with the law enforcement request, and another half indicated that they had not.

Afraid to read books, terrified into silence. Is that the America we want? Is that the America where we’d like to live? I don’t think so. And I hope my colleagues will agree.

It is time to reconsider those provisions of the Patriot Act that are un-American and, frankly, un-patriotic.

Bu my concerns with the Patriot Act go beyond library and bookseller records. Under section 215 of the Patriot Act, the FBI could seek any records or computer sign-in logs that the FBI believes pertain to a suspected terrorist.

My bill will amend section 215 of the Patriot Act. Part of this section relates to the production of records maintained by electronic communications providers. Libraries or books stores with internet access for customers could be deemed “electronic communication providers” and therefore be subject to a request by the FBI under its administrative subpoena authority.

As I mentioned earlier, some librarians are so concerned about the potential for abuse by the FBI that they have taken the unusual step of destroying records or computer sign-in logs—documents that pose serious potential for abuse.

The Library, Bookseller, and Personal Records Privacy Act is a reasonable solution. It would restore a pre-Patriot Act requirement that the FBI make a factual, individualized showing that the records sought pertain to a suspected terrorist. My bill will not prevent the FBI from doing its job. My bill recognizes that the post-September 11 world is a different world. There are circumstances when the FBI should legitimately have access to library, bookseller, or other personal information.

I would like to take a moment to explain how the safeguards in my bill would be applied. Suppose the FBI is conducting an investigation of an international terrorist organization. It has information that suggested members of the group live in a particular neighborhood. The FBI would like to serve a subpoena on the library in the suspects’ neighborhood.

Under current law, the FBI could decide to ask the library for all records concerning anyone who has ever borrowed a book or used a computer, and what books were borrowed, simply by asserting that the documents are sought for a terrorism investigation. But under my bill, the FBI could not do so. The FBI would have to set forth specific and articulable facts giving reason to believe that the person to whom the records pertain is a suspected terrorist. The FBI could subpoena only those library records—such as borrowing records or computer sign-in logs—that pertain to the suspected terrorists.

The FBI could not obtain library records concerning individuals who are not suspected terrorists.

So, under my bill, the FBI can only obtain documents that it legitimately needs, but my bill would also protect the privacy of law-abiding Americans. I might add, that if, as the Justice Department says, the FBI is using its Patriot Act powers in a responsible manner, does not seek the records of law-abiding Americans, and only seeks the records of suspected terrorists or suspected spies, then there is no reason for Congress to object to my bill.

The second part of the bill would address privacy concerns with another Federal law enforcement power expanded by the Patriot Act—the FBI’s national security letter authority, or what is sometimes referred to as “administrative subpoena authority.” Because the FBI does not need court approval to use this power.

Again, safeguards are needed to ensure that any individual who accesses the internet at a library or bookstore does not automatically give up all expectations of privacy. Like the section 215 I’ve discussed, my bill would require an individualized showing by the FBI of how the records of internet usage maintained by a library or bookseller pertain to a suspected terrorist or spy.

Yes, the American people want the FBI to be focused on preventing terrorism. And, yes, it makes sense to make some changes to the law to allow the FBI access to the information that it needs to prevent terrorism. But we do not need to change the values that constitute who we are as a nation in order to protect ourselves from terrorism. We can protect both our nation and our privacy and civil liberties.

An increasing number of Americans are beginning to understand that the Patriot Act went too far. Three States and over 130 cities and counties across the country have now passed resolutions expressing opposition to the Patriot Act. And it’s not just the Berkeleys and Madisons of the Nation, but other States and communities with strong libertarian values, such as Alaskas, and cities in Montana, have passed such resolutions.

I have many concerns with the Patriot Act. I am not seeking to repeal it, in whole or in part. My colleagues and I are only seeking to modify two provisions that pose serious potential for abuse.

The privacy of law-abiding Americans is at stake. Congress should act to

(a) Applications for Orders.—Subsection (b) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended—

(1) in paragraph (1), by striking “and” at the end; and

(2) in paragraph (2), by striking the period at the end and inserting “; and”;

and all that follows through “and the Library and the Senate under subsection (a) shall set forth”.

(b) Orders.—Subsection (c)(1) of that section is amended by striking “funds” and all that follows and inserting “funds that are spent by the Library and the Senate under subsection (a) shall set forth”.

(c) Oversight of Requests for Production of Records.—Section 502 of that Act (50 U.S.C. 1862) is amended—

(1) in subsection (a), by striking “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives” and inserting “the Permanent Select Committee on Intelligence and the Senate Committee on Intelligence and the Senate Committee on the Judiciary of the Senate”;

and

(2) in subsection (b), by striking “On a semiannual basis” and all that follows through “a report setting forth” and inserting “The report of the Attorney General to the Committees on the Judiciary of the House of Representatives and the Senate under subsection (a) shall set forth.”


(a) In General.—Section 209 of title 18, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“Records of Booksellers and Librarians.—(1) When a request under this section is made to a bookseller or library, the certification required by subsection (b) shall also specify that there are specific and articulable facts giving reason to believe that the person or entity to whom the records pertain is a foreign power or an agent of a foreign power.

(2) In this subsection:

(A) The term ‘bookseller’ means a person or entity engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication in print or digitally.

(B) The term ‘library’ means a library (as that term is defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(3) The terms ‘foreign power’ and ‘agent of a foreign power’ have the same meaning as such terms in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(c) Oversight of Requests for Production of Records.—Section 502 of that Act (50 U.S.C. 1862) is amended by inserting “the Library and the Senate Committee on Intelligence and the Senate Committee on the Judiciary of the Senate” after “Library and the Senate Committee on the Judiciary of the Senate”.

(d) Obligation.—(1) When a request under this section is made to a bookseller or library, the certificate of the Senate of the request of such bookseller or library shall be submitted to the Senate Banking Committee.

(2) In this subsection:

(A) The term ‘library’ means a library (as that term is defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(B) The term ‘bookseller’ means a person or entity engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication in print or digitally.

(c) Observation of Oversight.—(1) In this subsection:

(A) The term ‘library’ means a library (as that term is defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(B) The term ‘bookseller’ means a person or entity engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication in print or digitally.

(2) In this subsection:

(A) The term ‘library’ means a library (as that term is defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(B) The term ‘bookseller’ means a person or entity engaged in the sale, rental, or delivery of books, journals, magazines, or other similar forms of communication in print or digitally.
TITLE I—REFORM OF REGULATION OF FANNIE MAE AND FREDDIE MAC

Subtitle A—Improvement of Supervision


Sec. 102. Duties and authorities of Director and HUD.

Sec. 103. Examiners and accountants.

Sec. 104. Regulators.

Sec. 105. Assessments.

Sec. 106. Independence of Director in congressional testimony and recommendations.

Sec. 107. Limitation on nonmission-related assets.

Sec. 108. Reports.

Sec. 109. Risk-based capital test for enterprises.

Sec. 110. Minimum and critical capital levels.

Sec. 111. Definitions.

Subtitle B—Prompt Corrective Action

Sec. 121. Capital classifications.

Sec. 122. Supervisory actions applicable to undercapitalized enterprises.

Sec. 123. Supervisory actions applicable to significantly undercapitalized enterprises.

Subtitle C—Enforcement Actions

Sec. 151. Cease-and-desist proceedings.

Sec. 152. Temporary cease-and-desist proceedings.

Sec. 153. Removal and prohibition authority.

Sec. 154. Enforcement and jurisdiction.

Sec. 155. Civil money penalties.

Sec. 156. Criminal penalty.

Subtitle D—Reports to Congress

Sec. 161. Studies and reports.

Sec. 162. Examinations.

Sec. 163. General Provisions

Sec. 171. Conforming and technical amendments.

Sec. 172. Effective date.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 201. Abolishment of OFHEO.

Sec. 202. Continuation and coordination of certain regulations.

Sec. 203. Transfer and rights of employees of OECS.

Sec. 204. Transfer of property and facilities.

TITLE I—REFORM OF REGULATION OF FANNIE MAE AND FREDDIE MAC

Subtitle A—Improvement of Supervision


Sec. 102. Duties and authorities of Director and HUD.

Sec. 103. Examiners and accountants.

Sec. 104. Regulators.

Sec. 105. Assessments.

Sec. 106. Independence of Director in congressional testimony and recommendations.

Sec. 107. Limitation on nonmission-related assets.

Sec. 108. Reports.

Sec. 109. Risk-based capital test for enterprises.

Sec. 110. Minimum and critical capital levels.

Sec. 111. Definitions.

Subtitle B—Prompt Corrective Action

Sec. 121. Capital classifications.

Sec. 122. Supervisory actions applicable to undercapitalized enterprises.

Sec. 123. Supervisory actions applicable to significantly undercapitalized enterprises.

Subtitle C—Enforcement Actions

Sec. 151. Cease-and-desist proceedings.

Sec. 152. Temporary cease-and-desist proceedings.

Sec. 153. Removal and prohibition authority.

Sec. 154. Enforcement and jurisdiction.

Sec. 155. Civil money penalties.

Sec. 156. Criminal penalty.

Subtitle D—Reports to Congress

Sec. 161. Studies and reports.

Sec. 162. Examinations.

Sec. 163. General Provisions

Sec. 171. Conforming and technical amendments.

Sec. 172. Effective date.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 201. Abolishment of OFHEO.

Sec. 202. Continuation and coordination of certain regulations.

Sec. 203. Transfer and rights of employees of OECS.

Sec. 204. Transfer of property and facilities.
(b), the Director shall allow the enterprise to submit new information in support of the request for approval.

"(8) NEW PROGRAMS NOT IN THE PUBLIC INTEREST. — The Director, after receiving a report under paragraph (2)(A)(ii) denying a request after finding that the program is not in the public interest, may not consider a request under subsection (b)(3), the Director shall provide the enterprise with notice and opportunity for a hearing on the record regarding such denial.".

(c) AUTHORITY — Part 2 of Subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4517 et seq.) is amended by striking sections 1311A and 1311H.

"(d) AUTHORITY FOR HOUSING GOALS. —

(1) IN GENERAL. — Section 1331 of the Housing and Community Development Act of 1992 (12 U.S.C. 4563) is amended—

(A) in the first sentence of subsection (a), by inserting "of Housing and Urban Development" after "The Secretary"; and

(B) by adding at the end the following:

""(d) FINANCIAL OPERATIONS PLAN AND FORECASTS. — Notwithstanding the provisions of any law, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.""

(2) ANNUAL REPORT ON HOUSING GOALS. — Section 1324 of the Housing and Community Development Act of 1992 (12 U.S.C. 4544) is amended by striking "Secretary of Housing and Urban Development" after "Secretary" each place such term appears.

(e) TECHNICAL AND CONFORMING AMENDMENTS. —

(1) Fannie Mae. — Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1454(c)) is amended by striking "Secretary under section 1322" and inserting "Director under section 1319H".

(2) Freddie Mac. — Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is amended by striking "Secretary under section 1322" and inserting "Director under section 1319H".

(3) FINANCIAL INSTITUTIONS EXAMINATION COUNCIL. — Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(A) in paragraph (5), by striking the period; and

(B) by adding at the end the following:

""(6) the Director of the Office of Federal Enterprise Supervision.""

SEC. 103. EXAMINERS AND ACCOUNTANTS. —

(a) EXAMINATIONS. — Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended—

(1) in the second sentence of subsection (c), by striking "The" and inserting "During the 3-year period that begins upon the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the"; and

(2) in subsection (d), by striking "Federal Reserve Board and inserting "Director of the Office of Thrift Supervision".

(b) ENHANCED AUTHORITY TO HIRE EXAMINERS. — See section 1317. The Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following:

""(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, AND EXAMINERS. —

""(1) APPLICABILITY. — This section applies with respect to any position of examiner, accountant, and economist at the Office, with respect to supervision and regulation of the enterprises, that is in the competitive service.

""(2) APPOINTMENT AUTHORITY. —

""(A) IN GENERAL. — The Director may appoint candidates to any position described in paragraph (1)."

""(i) Compliance with the statutes, rules, and regulations governing appointments in the excepted service; and

""(ii) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

""(B) RULE OF CONSTRUCTION. — The appointment and supervision of an examiner under this paragraph shall not be considered to cause such position to be converted from the competitive service to the excepted service.

""(C) REGULATIONS. —

""(A) IN GENERAL. — Not later than 90 days after the end of fiscal year 2003 (for fiscal year 2003) and 90 days after the end of fiscal years 2004 and 2005, the Director shall submit a report with respect to the exercise of the authority granted by paragraph (1) during such fiscal years to the—

(i) Committee on Government Reform and the Committee on Financial Services of the House of Representatives; and

(ii) Committees on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate.

""(B) CONTENTS. — The reports submitted under subparagraph (A) shall describe the changes in the hiring process authorized by paragraph (2), including relevant information related to—

(i) the identity of candidates;

(ii) the procedures used by the Director to select candidates through the streamlined hiring process;

(iii) the numbers, types, and grades of employees hired under the authority;

(iv) any benefits or shortcomings associated with the use of the authority;

(v) the effect of the exercise of the authority on the hiring of veterans and other demographic groups; and

(vi) the way in which managers were trained in the administration of the streamlined hiring system.
"

SEC. 104. REGULATIONS. — Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended—

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

"

(2) in subsection (c), by striking "Committee on Banking, Finance, and Urban Affairs" and inserting "Committee on Financial Services".

SEC. 105. ASSESSMENTS. — Section 1325 of the Housing and Community Development Act of 1992 (12 U.S.C. 4516) is amended—

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

""(a) ANNUAL ASSESSMENTS. — The Director shall establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for all reasonable costs and expenses of the Office, including—

""(1) the expenses of any examinations under section 1317; and

""(2) the expenses of obtaining any reviews and credit assessments under subsection section 1319.
"

(2) in subsection (b), by moving the margin 2 ems to the right:—

(3) in subsection (c), by adding at the end the following: ""The Director may adjust the amount of any annual assessments as an assessment under subsection (a) that are to be paid pursuant to subsection (b) by an enterprise, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under subtitles B and C for an enterprise are borne only by that enterprise.

(4) in subsection (f), by striking "Any assessments collected" and all that follows and inserting the following: ""Notwithstanding any law to the contrary, any annual assessments collected by the Director pursuant to this section shall be deposited in the Fund in an account for the Director. Any amounts in the Fund are hereby available, without fiscal year limitation, to the Director (to the extent of amounts in the Director's account) for carrying out the supervisory and regulatory responsibilities of the Director with respect to the enterprises, including any necessary administrative and nonadministrative expenses of the Director in carrying out the purposes of this title, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), and the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.),
"

(5) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

""(1) FINANCIAL OPERATING PLANS AND FORECASTS. — Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Director of the Office of Management and Budget.

""(2) REPORTS OF OPERATIONS. — As soon as practicable after the end of each fiscal year, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Director of the Office of Management and Budget.

SEC. 106. INDEPENDENCE OF DIRECTOR IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS. —

Section 111 of Public Law 93-449 (12 U.S.C. 250) is amended by inserting "the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury," after "the Federal Housing Finance Board,"

SEC. 107. LIMITATION ON NONMISSION-RELATED ASSETS. —


(1) by striking the subtitle designation and heading and inserting the following:

""Subtitle B—Required Capital Levels for Enterprises, Special Enforcement Powers, and Limitation on Nonmission-Related Assets"

(2) by adding at the end the following:

""SEC. 136F. LIMITATION ON NONMISSION-RELATED ASSETS. —

""(a) IN GENERAL. — The Director may, by regulation, determine the type and amount of nonmission-related assets that an enterprise may hold at any time. The Director shall, in any such regulation, define the term 'nonmission-related asset' for purposes of this section.

""(b) RULE OF CONSTRUCTION. — Subsection (a) shall not be construed to authorize an enterprise to engage in any new program relating to any nonmission-related asset without obtaining the prior approval of the Director in accordance with section 1309.

SEC. 108. REPORTS. —

Sections 1327 and 1328 of the Housing and Community Development Act of 1992 (12 U.S.C. 4547, 4548) are amended by striking "Secretary" each place it appears and inserting "Director".

SEC. 109. RISK-BASED CAPITAL TEST FOR ENTERPRISES. —

Section 1301 of the Housing and Community Development Act of 1992 (12 U.S.C. 4611) is amended—
(1) in subsection (a)(2)(A), by inserting "or change in such other manner as the Director considers appropriate," after "subparagraph (C);"

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding subsection (a), the Director may, in the sole discretion of the Director, make any assumptions regarding interest rates, home prices, and new business. Such assessment shall ensure that enterprise risk-based capital standards are, to the extent feasible, comparable to those imposed by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1831b)) for comparable risk. The risk-based assessment relating to new business under this paragraph shall ensure that the enterprise is able to remain a viable enterprise in full compliance with all applicable risk-based capital and minimum capital standards, and that it can fulfill its role of ensuring appropriate secondary market liquidity throughout the stress test."

(3) in subsection (c)(2), by inserting ", or such other percentage as the Director considers appropriate" before the period at the end.

SEC. 110. MINIMUM AND CRITICAL CAPITAL LEVELS.

(a) MINIMUM CAPITAL LEVEL—Section 1362 of the Housing and Community Development Act of 1992 (12 U.S.C. 4612) is amended—

(1) by striking subparagraph (b);

(2) by striking "(a) IN GENERAL.—" and (3) in the matter preceding paragraph (1), by inserting before "the sum of" the following: "the amount established by the Director, by regulation or order, as such amount may be adjusted from time-to-time by the Director to achieve the purposes of this title, by less than"

(b) CRITICAL CAPITAL LEVEL—Section 1363 of the Housing and Community Development Act of 1992 (12 U.S.C. 4613) is amended, in the matter preceding paragraph (1), by inserting before "the sum of" the following: "the amount established by the Director, by regulation or order, as such amount may be adjusted from time-to-time by the Director to achieve the purposes of this title, that is not less than"

SEC. 111. DEFINITIONS.

Section 1360 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (5), by striking "Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Federal Enterprise Supervision of the Department of the Treasury;"

(2) in paragraphs (8), (9), (10), and (19), by inserting "of Housing and Urban Development" after "Secretary" each place such term appears;

(3) in paragraph (14), by striking "Federal Housing Enterprise Oversight of the Department of Housing and Urban Development" and inserting "Federal Enterprise Supervision of the Department of the Treasury;"

(4) by striking paragraph (15);

(5) by redesignating paragraphs (7) through (16) (as amended by the preceding provisions of this Act) as paragraphs (8) through (15), respectively; and

(6) by inserting after paragraph (8) the following:

"(7) ENTERPRISE-AFFILIATED PARTY. The term "enterprise-affiliated party" means—

(A) any director, officer, employee, or controlling stockholder of, or agent for, an enterprise;

(B) any shareholder, consultant, joint venture partner, and any other person as determined by the Executive Director (by regulation or case-by-case) who participates in the conduct of the affairs of an enterprise; and

"(C) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

(I) any violation of any law or regulation;

(II) any breach of fiduciary duty; or

(III) any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the enterprise."

(b) BY INSERTING BEFORE PARAGRAPH (2) THE FOLLOWING:

"(1) REQUIRED MONITORING. The Director shall closely monitor the condition of any undercapitalized enterprise;

"(2) periodically review the plan, restrictions, and requirements applicable to the undercapitalized enterprise to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

Subtitle B—Prompt Corrective Action

SEC. 131. CAPITAL CLASSIFICATIONS.

Section 1364 of the Housing and Community Development Act of 1992 (12 U.S.C. 4614) is amended—

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

"(b) DISCRETIONARY CLASSIFICATION.

(1) GROUNDS FOR RECLASSIFICATION. The Director may reclassify an enterprise under paragraph (2) if—

(A) at any time, the Director determines in writing that an enterprise is engaging in conduct that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly;

(B) after notice and an opportunity for hearing, the Director determines that an enterprise is in an unsafe or unsound condition; or

(C) pursuant to section 1371(b), the Director deems an enterprise to be engaging in unsafe or unsound practices;

(2) RECLASSIFICATION. In addition to any other action authorized under this title, including the reclassification of an enterprise for any reason not specified in this subsection, if the Director takes any action described in paragraph (1) the Director may classify an enterprise—

(A) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(B) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(C) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(4) RESTRICTION OF ASSET GROWTH. An undercapitalized enterprise shall not, directly or indirectly, acquire any asset in any entity or issue a new product unless—

(1) the Director has accepted the capital restoration plan of the enterprise, the enterprise is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan;

(2) the Director determines that the proposed action will further the purpose of this section; and

(3) the capital requirements imposed under this section; and

(4) by inserting after subsection (b) the following:

"(C) OTHER DISCRETIONARY SAFEGUARDS. The Director may take any action authorized to an undercapitalized enterprise, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized enterprise, and any other action the Director determines that such actions are necessary to carry out the purpose of this subtitle.

SEC. 132. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in subsection (b) —

(A) in the subsection heading, by striking "SUPERVISING OFFICERS." and inserting "SUPERVISORY ACTIONS"; and

(2) in the matter preceding paragraph (1), by striking "may, at any time, take any other action described in subsection (a);"

(3) by redesigning paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(4) by inserting after paragraph (4) the following:

"(5) IMPROVEMENT OF MANAGEMENT. Take one or more of the following actions:

(A) NEW ELECTION. The Director shall order a new election for the board of directors of the enterprise;

(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS. The Director shall require the enterprise to dismiss from office any director or executive officer who had held office for more than 180 days
immediately before the enterprise became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers under section 1371.

"(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the enterprise to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director)."

and

(E) by inserting at the end the following:

"(8) OTHER ACTION.—Require the enterprise to take such action as the Director determines will better carry out the purpose of this section than any of the actions specified in this paragraph;"

(2) by amending subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

"(C) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—An enterprise that is classified as significantly undercapitalized may not, without prior written approval by the Director:

"(A) pay any bonus to any executive officer; or

"(B) provide compensation to any executive officer in an amount that exceeds the officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the enterprise became undercapitalized."

Subtitle C—Enforcement Actions

SEC. 151. CEASE-AND-DESIST PROCEEDINGS.

Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—(I) IN GENERAL.—If, in the opinion of the Director, an enterprise or any enterprise-affiliated party is engaging in or has engaged, or the Director has reasonable cause to believe that the enterprise or any enterprise-affiliated party is about to engage in, an unsafe or unsound practice in conducting the business of an enterprise, or violating a law, rule, or regulation, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise or any written agreement entered into with the Director, the Director may issue and serve upon the enterprise or such party a notice of charges.

(II) REMOVAL AND PROHIBITION AUTHORITY.—(1) SUSPENSION OR PROHIBITION AUTHORITY.—(A) determines that such action is necessary for the protection of the enterprise; and

(B) serves such party with written notice of intention to remove an enterprise-affiliated party from office or to prohibit such enterprise-affiliated party from engaging in any unsafe or unsound practice for such action, and shall fix a time and place at which a hearing will be held on such action. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of such party.

(2) EFFECTIVE PERIOD.—Any suspension order issued under subsection (a)—

(A) shall become effective upon service; and

(B) becomes effective only if a court issues a stay of such order under subsection (g) of this section, shall remain in effect and enforceable until—

(i) the date the Director issues the suspension order; or

(ii) at such time as the court grants a stay of the order, which shall be within 30 days of the date the notice of intention to remove was served, unless an earlier or a later date is set by the Director at the request of such party.

(C) the date that the Director issues the suspension order; or

(D) the date that the Director issues the suspension order.

(3) in subsection (c), striking "or director" and inserting "director, or enterprise-affiliated party";

(4) by striking subsection (e) and in inserting the following:

"(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued under this subsection, the Director may apply to the United States District Court for the District of Columbia or the United States district court within the jurisdiction of which the enterprise is located, for an injunction to enforce such order, and, if the court determines that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

SEC. 153. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of title XII of the Housing and Community Development Act of 1992 is amended—

(1) by redesignating sections 1377 through 1379B as sections 1379 through 1379E, and renumbering such sections accordingly; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

"SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY. —

(a) AUTHORITY TO ISSUE ORDER.—Whenever the Director determines that—

(I) any enterprise-affiliated party has, directly or indirectly—

(i) any law or regulation; or

(ii) any cease-and-desist order which has become final and effective; or

(iii) any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise or any written agreement entered into with the Director, the Director may issue and serve upon the enterprise or such party a notice of charges.

(II) any enterprise-affiliated party has, directly or indirectly—

(i) any law or regulation; or

(ii) any cease-and-desist order which has become final and effective; or

(iii) any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise or any written agreement entered into with the Director, the Director may issue and serve upon the enterprise or such party a notice of charges.

(III) any enterprise-affiliated party has, directly or indirectly—

(i) any law or regulation; or

(ii) any cease-and-desist order which has become final and effective; or

(iii) any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise or any written agreement entered into with the Director, the Director may issue and serve upon the enterprise or such party a notice of charges.

(b) ISSUANCE FOR UNSATISFACTORY RATINGS.—(1) If an enterprise receives, in its most recent examination report, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may determine that the enterprise—

(i) is not conducting its business in an unsafe or unsound manner for purposes of this section; or

(ii) is not conducting its business in an unsafe or unsound manner for purposes of this section.

(2) by striking "Director" and inserting "director, or enterprise-affiliated party";
"(d) Prohibition of Certain Specific Activities.—Any person subject to an order issued under this section shall not—

(1) participate in any manner in the conduct of the affairs of any enterprise;

(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any enterprise;

(3) violate any voting agreement previously approved by the Director; or

(4) act, or cause or permit any person to act, as an enterprise-affiliated party.

"(e) Industry-Wide Prohibition.—

(1) In General.—Except as provided in subsection (g), if the Director, in the discretion of the Director, determines that an order issued under subsection (h), if it has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise, such order may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of any enterprise.

(2) Exception if Director Provides Written Consent.—If, on or after the date an order is issued under this section which removes or suspends from office any enterprise-affiliated party or prohibits such party from participating in the conduct of the affairs of an enterprise, the Director determines that an order issued under subsection (h), if it has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise, such order may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of any enterprise.

(3) Violation of Paragraph (1) Treated as Violation of Order.—Any violation of paragraph (1) by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

(4) This Section shall Only Apply to a Person Who is an Individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business enterprise.

"(g) Stay of Suspension and Prohibition of Enterprise-Affiliated Party.—Within 10 days after any enterprise-affiliated party has been suspended from office or prohibited from participating in the conduct of the affairs of an enterprise, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the enterprise is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to this section, if the Director determines that suspension or prohibition pending the completion of the proceedings pursuant to this section is in the public interest.

Any hearing upon such petition shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the enterprise is located, unless the party affirming the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(h) Suspension of All Directors.—In the event all of the directors of an enterprise are suspended pursuant to this section, the Board of Directors of the enterprise shall have no quorum and such board, Board Members.

"(1) In General.—If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an enterprise less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the directors or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

"(2) Suspension of All Directors.—In the event all of the directors of an enterprise are suspended pursuant to this section, the Board of Directors of the enterprise shall have no quorum and such board, Board Members.

"(i) Copy.—A copy of any notice under paragraph (1)A shall also be served upon the enterprise, to whereupon the enterprise-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of the enterprise.

"(ii) Effect of Acquittal.—A finding of not guilty or other disposition of the charge that the continued service to or participation in the conduct of the affairs of the enterprise by such party does not, or is not likely to, pose a threat to the enterprise or impair public confidence in the enterprise, shall result in the dismissal of such party or from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the enterprise will be rescinded or modified. Such an order shall contain a statement of the basis for the Director’s decision, if adverse to such party. The Director is authorized to prescribe such rules and regulations as may be necessary to effectuate the purposes of this subsection.

"(j) Hearings and Judicial Review.—

(1) Venue and Procedure.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the enterprise is located, unless the party affirming the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

(2) Review of Order.—Any party to any proceeding under paragraph (1) may obtain a review of any order issued pursuant to paragraph (1) (other than an order issued with the consent of the enterprise or the enterprise-affiliated party concerned, or an order issued under subsection (h) of this section) by filing a petition with the Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the enterprise is located.

(3) Authority of Remaining Board Members.—If, in the opinion of the court, upon the filing of such petition, the court shall have jurisdiction, which upon the filing of the record shall (except as provided in the last sentence of paragraph (4)(c)), have exclusive jurisdiction, the same shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(4) Hearsings Regarding Continued Participation.—If, in the opinion of the court, any notice of suspension or order of removal issued pursuant to paragraph (1) or (2) of this subsection, the enterprise-affiliated party concerned may continue to exercise the opportunity to appear before the Director to show that the continued continued to participate in the conduct of the affairs of the enterprise by such party does not, or is not likely to, pose a threat to the interests of the enterprise or threaten to impair public confidence in the enterprise, upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such party) and place at which such party may appear, personally or through counsel, before one or more members of the Director or designated employees of the Director to submit written materials (or, at the discretion of the Director, an oral argument) within 60 days of such hearing, the Director shall notify such party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the enterprise will be continued, terminated, or otherwise modified, or whether the suspension or prohibition from participating in any manner in the conduct of the affairs of the enterprise will be rescinded or modified. Such an order shall contain a statement of the basis for the Director’s decision, if adverse to such party. The Director is authorized to prescribe such rules and regulations as may be necessary to effectuate the purposes of this subsection.

(2) Proceedings Not Treated as Stay.—The commencement of proceedings for judicial review under paragraph (1) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(2) Conforming Amendments.—

U.S.C. 4317(f)) is amended by striking “section 1379B” and inserting “section 1379D.”

(2) FANNIE MAE CHARTER ACT.—The second sentence of subsection (b) of section 308 of the Federal Home Loan Mortgage Corporation Charter Act (12 U.S.C. 1723(b)) is amended by striking “The” and inserting “Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the”. 

(3) FREDDIE MAC ACT.—The second sentence of subparagraph (A) of section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by striking “may” and inserting “shall.”

Sec. 154. Enforcement and Jurisdiction.

Section 1375 of the Housing and Community Development Act of 1992 (12 U.S.C. 4635) is amended—

(1) in subsection (a) and inserting the following:

“(a) Enforcement.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of an enterprise is located, for the enforcement of any effective and outstanding notice or order issued under this title or any order issued pursuant to a subpoena or any request that the Attorney General of the United States bring any action under this subsection. Any such court shall have jurisdiction and power to order and require compliance with such notice or order; and

(2) by striking “or 1376” and inserting “or 1376, or 1377”.

Sec. 155. Civil Money Penalties.

Section 1376 of the Housing and Community Development Act of 1992 (12 U.S.C. 4636) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “or any executive officer or director, or any enterprise-affiliated party, or any”;

(2) by striking subsection (b) and inserting the following:

“(b) Amount of Penalty.—

(1) First Tier.—Any enterprise which, or any enterprise-affiliated party which, participates, directly or indirectly, in any unsafe or unsound practice, or breach of any statute or rule enforced by the Director, shall forfeit and pay a civil penalty of not more than $50,000 for each day during which such violation, practice, or breach continues.

(2) Second Tier.—Any enterprise which, or any enterprise-affiliated party which—

(A) knowingly—

(i) commits any violation described in any subparagraph of paragraph (1);

(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such enterprise; or

(iii) breaches any fiduciary duty; and

(B) knowing or recklessly causes a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach, shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) Maximum Amounts of Penalties for Any Violation Described in Paragraph (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than an enterprise, an amount not to exceed $2,000,000; and

(B) in the case of any enterprise, $2,000,000; and

(3) in subsection (d)—

(A) by striking “or director” each place such term appears and inserting “director, or enterprise-affiliated party”;

(B) by striking “request the Attorney General of the United States to”;

(C) by inserting, after “Director of the United States district court within the jurisdiction of which the headquarters of the enterprise is located,” after “District of Columbia”; and

(D) by striking the direction and control of the Attorney General, bring such an action’.

Sec. 156. Criminal Penalty.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4637 et seq.) is amended by inserting after section 1377 (as added by this Act) the following:

“Sec. 1378. Criminal Penalty.

“Whoever, being subject to an order in effect under section 1376, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any enterprise shall, notwithstanding section 3711 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.”.

Subtitle D—Reports to Congress

Sec. 161. Studies and Reports.

(a) Insured Depository Institution Holdings of Enterprise Debt and Mortgage-Backed Securities.—Not later than 180 days after the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board shall jointly submit a report to Congress regarding—

(1) the extent to which obligations issued or guaranteed by the enterprises (including mortgage-back ed securities) are held by federally insured depository institutions, including such extent by type of institution and such extent relative to the capital of the institution;

(2) the extent to which the unlimited holdings by federally insured depository institutions of the obligations of the enterprises could produce systemic risk issues, particularly the solvency of the banking system in the United States, in the event of default or failure by an enterprise; and

(3) the effects on the enterprises, the banking industry, and mortgage markets, if prudent limits on the holdings of enterprise obligations were placed on federally insured depository institutions.

(b) Portfolio Operations, Risk Management, and Mission.—

(1) In General.—Not later than one year after the date of enactment of the Federal Enterprise Regulatory Reform Act of 2003, the Director shall submit a report to Congress which describes the holdings of the enterprises in retained mortgages and repurchased mortgage-backed securities and the use of derivatives for hedging purposes.

(2) Consultation.—The Director shall consult with the Comptroller General of the United States in preparing the report under this subsection with respect to any research, analyses, and assessments for the report.

(c) Study of Merger of FHFB With Other Entities.

(1) In General.—The Secretary of the Treasury, after consultation with the Secretary of Housing and Urban Development and the Board of Governors of the Federal Reserve System, shall study the feasibility and advisability of merging the Federal Home Financing Board and the Office of Federal Enterprise Supervision of the Department of the Treasury.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted under paragraph (1).

(d) Study of Consolidation of OTS With Other Entities.

(1) Study.—The Secretary of the Treasury shall study the feasibility and efficacy of consolidating the Office of Thrift Supervision with the Office of Federal Enterprise Supervision of the Department of the Treasury.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted under paragraph (1).
policies, limitations, regulations, legislation, or other actions to deal appropriately and effectively with the issues addressed by such report.

(5) AMENDMENTS.—As used in this section, the terms “Director” and “enterprise” have the meanings given those terms under section 306 of the Community Development Act of 1992 (12 U.S.C. 4502).

g. CLERICAL AMENDMENTS.—Part 3 of subtitle A of title XIII the Housing and Community Development Act of 1992 (120 Stat. 3969) is amended—

(1) by striking sections 1315, 1325, and 1353 (Public Law 102-550; 120 Stat. 3969), except that the provisions of law amended by such sections repealed shall not be affected by such repeal;

(2) by striking subsections 1345, 1346, and 1356 (12 U.S.C. 4601-3).

Subtitle E—General Provisions

SEC. 171. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO 1992 ACT.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), as amended this Act, is further amended—

(1) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) in the subsection heading, by striking “OFFICIAL PERSONNEL” and inserting “IN GENERAL”;

(ii) by striking “and” and inserting “;” and

(iii) by striking “Secretary and” and inserting “Secretary”;

(B) in subsection (b)—

(i) in the subsection heading, by striking “Housing and Urban Development” and inserting “DEPARTMENT OF THE TREASURY”;

(ii) by striking “and” and inserting “;”;

(iii) by striking “Secretary and” and inserting “Secretary”;

(C) in subsection (c);—

(i) in section 1319A (12 U.S.C. 4520)—

(A) by striking “(a) in general” and inserting “(a);” and

(B) by striking subsection (b);—

(ii) in section 1319F (12 U.S.C. 4525), by striking paragraph (2);

(iii) in the section heading for section 1338, by striking “SECRETARY” and inserting “DIRECTOR”;—

(i) in section 1361 (12 U.S.C. 4611)—

(A) in subsection (e)(1), by striking the first sentence and inserting the following: “The provisions of section 1361, 120 Stat. 3969, et al., except that the provisions of law amended by such sections repealed shall not be affected by such repeal;”;

(B) in subsection (e)(2), by striking “with the written concurrence of the Secretary of the Treasury”;

(ii) by striking section 1383;

(iii) in section 1383A (12 U.S.C. 4613), by striking the last sentence;

(iv) in section 1367(a)(2) (12 U.S.C. 4671a(2)), by striking “with the written concurrence of the Secretary of the Treasury”;—

(i) by striking section 1383;

(ii) by inserting “Committee on Banking, Finance and Urban Affairs” after “House”.

(c) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) by striking “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” each place such term appears, and inserting “Director of the Office of Federal Enterprise Supervision of the Department of the Treasury”;

(A) in section 303(c)(2) (12 U.S.C. 1718c(c)(2));

(B) in section 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)); and

(C) in section 309(k)(1); and

(2) in section 307(c)—

(A) in paragraph (1), by inserting “the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury,” after “Secretary,”;

(B) in paragraph (3), by striking “Secretary” and inserting “Director of the Office of Federal Enterprise Supervision of the Department of the Treasury,”;

(C) Amendments to Fannie Mae Act.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is amended—

(1) by striking the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development each place such term appears, and inserting “Director of the Office of Federal Enterprise Supervision of the Department of the Treasury,” in—

(A) section 303(b)(2) (12 U.S.C. 1452b(2));

(B) section 309(h)(2) (12 U.S.C. 1452h(2));

and

(C) section 307(c)(1) (12 U.S.C. 1452c(1));

(ii) in section 306 (12 U.S.C. 1452i)—

(A) by striking “1318(c)” and inserting “section 306(c)”;

and

(B) by striking “section 1316” and inserting “section 306”;

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (f)—

(i) in paragraph (1), by inserting “the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury,” after “Secretary,”;

(ii) in paragraph (3), by striking “Secretary and” and inserting “Director”;

and

(B) by striking “section 306” and inserting “section 306(c)”;—

(iii) in section 3106, by striking paragraph (2); and

(iv) in section 3106, by striking the “section heading,” and inserting “DIRECTOR”.


(g) Amendments to Title 5, United States Code.—Section 5315 of title 5, United States Code, is amended by striking the item relating to the Director of the Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

“Director of the Office of Federal Enterprise Oversight, Department of the Treasury.”;

SEC. 172. EFFECTIVE DATE.

Except as specifically provided otherwise in this Act, any amendments made by this title shall take effect on enactment of this Act, and shall apply beginning on the expiration of the 1-year period beginning on the date of enactment of this Act.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 201. ABOLITION OF OFFICE.

(a) In General.—Effective at the end of the period of time for the transfer of functions under subsection (a) of this section, the Office of Federal Housing Enterprise Oversight shall be abolished.

(b) Position of Director and Deputy Director of such Office are abolished.

(c) Position of Acting Director of such Office.

(d) Position of Acting Deputy Director of such Office are abolished.

(e) The position of the Director and Deputy Director of such Office shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person which—

(1) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any other provision of law not applicable with respect to such Office; and

(f) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person which—

(1) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any other provision of law not applicable with respect to such Office; and

(g) existed on the day before the abolition under subsection (a) of this section.

(h) Continuation of suits for payment of compensation and benefits of any such employee which accrue before the effective date of any transfer of such employee pursuant to section 203(c) and

(i) may take any other action necessary for the purpose of winding up the affairs of the Office.

(j) Status of employees as Federal agency employees.—The amendments made by title I and the abolition of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as employees of an agency of the United States for purposes of any other provision of law during any time such employee is so employed.

(k) Use of property and services.—The Director of the Office of Federal Enterprise Supervision of the Department of the Treasury may use the property of the Office of Federal Housing Enterprise Oversight to perform functions that have been transferred to the Director of the Office of Federal Enterprise Supervision for such time as is reasonable to facilitate the orderly transfer of functions under this Act or any other amendment made by this Act or any other provision of law.

(l) Agency services.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury shall—

(A) continue to provide such services, on a reasonable, equitable, and just basis, during the period of transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(m) Savings Provisions.—

(1) Existing rights, duties, and obligations not affected.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person which—

(A) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), or any other provision of law not applicable with respect to such Office; and

(B) existed on the day before the abolition under subsection (a) of this section.

SEC. 202. TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY.

SEC. 201. ABOLITION OF OFFICE.
SEC. 202. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

All regulations, orders, determinations, and resolutions that—
(1) were issued, made, prescribed, or allowed to become effective by—
(A) the Office of Federal Housing Enterprise Oversight;
(B) the Secretary of Housing and Urban Development and that relate to the Secretary's authority under—
(i) the Fair Housing and Community Development Act of 1992 (2 U.S.C. 4501 et seq.);
(ii) the Housing and Urban Development Act of 1968 (2 U.S.C. 2705 et seq.); or
(iii) the Home Mortgage Disclosure Act (12 U.S.C. 2101 et seq.); with respect to the National Mortgage Association; or
(iv) the Home Loan Mortgage Corporation Act of 1961 (12 U.S.C. 1651 et seq.);
(2) constitute a court of competent jurisdiction that relate to functions transferred by this Act; and
(3) in effect on the date of the abolishment under section 201(a) of this Act,
shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against any court or any agency of the Department of the Treasury until modified, terminated, superseded by or in accordance with applicable law by such Board, any court of competent jurisdiction, or operation of law.

SEC. 203. TRANSFER AND RIGHTS OF EMPLOYEES OF OFFICE.

(a) AUTHORITY TO TRANSFER.—The Director of the Office of Federal Enterprise Supervision of the Department of the Treasury may transfer employees of the Office of Federal Housing Enterprise Oversight to the Office of Federal Enterprise Supervision for employment in the Office of the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury until modified, terminated, or superseded in accordance with applicable law by such Board, any court of competent jurisdiction, or operation of law.

(b) APPOINTMENT AUTHORITY FOR EXCEPTED POSITIONS.—In the case of employees occupying positions that relate to functions transferred by this Act and the employees appointed pursuant to subparagraph (A), the appointment or reappointment of such employees shall be transferred.

SEC. 204. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 201(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury.

By Mr. COLEMAN:
S 1509. A bill to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes; to the Committee on Veterans’ Affairs.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill I introduce today, the Eric and Brian Simon Act of 2003, to provide compensation to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S 1509. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Eric and Brian Simon Act of 2003.”

SEC. 2. GRATUITY FOR VETERANS AND DEPENDENTS WHO CONTRACT HIV OR AIDS FROM BLOOD TRANSFUSIONS RELATING TO SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Subchapter IV of chapter 11 of title 38, United States Code, is amended by inserting after section 1137 the following new section:

“S 1138. Gratitude for veterans and dependents who contract HIV or AIDS from blood transfusions relating to service-connected disabilities—

(1) In general.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Office of Federal Enterprise Supervision of the Department of the Treasury as a result of a transfer under subsection (a) may retain for 18 months after the date such employee becomes an employee of the Office of Federal Enterprise Supervision of the Department of the Treasury the benefit program of the Office of Federal Enterprise Supervision of the Department of the Treasury or the Office of Federal Housing Enterprise Oversight, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 201(a) if—
(A) the employee elect to give up the benefit or membership in the program; and
(B) the benefit or program is continued by the Director of the Office of Federal Enterprise Supervision.

(2) PAYMENT OF DIFFERENTIAL.—The difference in the costs between the benefits which would have been provided by such agency and those provided by this section shall be paid by the Director of the Office of Federal Enterprise Supervision. If any employee elect to give up membership in the health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternative health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(3) E XCEPTION.—An individual described in subsection (a) who has an existing contract of employment with an agency on the date of the abolishment under section 201(a) shall continue to perform such contract of employment under such contract in accordance with such contract and the terms and conditions thereof.

(4) RECEIPT OF BENEFITS.—An individual described in subsection (a) who elects to continue to receive benefits under a program described in subsection (a) shall be entitled to receive such benefits for a period of 18 months from the date such employee elects to continue such benefits.

(c) E XCEPTION.—An individual described in subsection (b)(1) of this section shall not be entitled to the payment of a gratuity under subsection (a) if the individual has received a payment under section 102 of the Ricky Ray Hemophilia Relief Fund Act of 1998 (42 U.S.C. 200c–22 note) with respect to an HIV or AIDS related injury.

(d) ACCEPTABLE MEDICAL EVIDENCE.—(1) Except as provided in paragraph (2), medical evidence acceptable to the Secretary reasonable certainty of perinatal transmission of HIV from such veteran.

(2) A lawful spouse, or former lawful spouse, of a veteran described in paragraph (1) of that subsection.

(e) PAYMENT FOR DECEASED INDIVIDUALS.—(1) If an individual entitled to a gratuity under subsection (a) is deceased, the individual described in subsection (b)(1) of this section shall be entitled to receive a gratuity in the amount of $100,000 to each individual described in subsection (b)(1) of this section.

(2) E ligible individuals.—An individual described in this subsection is any individual as described in paragraph (1) of that subsection.

(3) Exception.—If an individual described in paragraph (1) or (2) of this subsection is deceased, the individual described in subsection (b)(1) of this section shall be entitled to receive a gratuity in the amount of $100,000 to each individual described in subsection (b)(1) of this section.

(f) PAYMENT FOR DECEASED INDIVIDUALS.—(1) If an individual entitled to a gratuity under this section is deceased at the time of payment, payment shall be made as follows:

(A) In the case of an individual who is survived by a spouse and any children who are under the age of 18 years or are ineligible to receive the payment of a gratuity under this section.

(B) In the case of an individual who is survived by a spouse and any children who are under the age of 18 years or are ineligible to receive the payment of a gratuity under this section and is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(2) The Secretary may waive an application of subsection (a) if the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(3) If the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(3) The Secretary may waive an application of subsection (a) if the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(4) If the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(4) The Secretary may waive an application of subsection (a) if the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(5) If the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

(6) The Secretary may waive an application of subsection (a) if the Secretary determines that such evidence was destroyed or is otherwise unavailable as a result of circumstances beyond the control of the individual concerned.

SEC. 3. GRATUITY FOR VETERANS AND DEPENDENTS WHO CONTRACT HIV OR AIDS FROM BLOOD TRANSFUSIONS RELATING TO SERVICE-CONNECTED DISABILITIES.

(1) In general.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with an agency on the date of the abolishment under section 201(a), that a reorganization of the combined work force is required, that reorganization shall be deemed a major reorganization for purposes of the definition of major reorganization in section 8336(d) of title 5, United States Code.
"(C) In the case of an individual not described by paragraph (1) or (2), to the parents of the individual living at the time of payment in equal shares.

(2) Any individual described in paragraph (2) or (3) of subsection (b) who is entitled to a gratuity under subsection (a) is also entitled to payment under paragraph (1) with respect to such individual.

(3) In this subsection:

(A) The term ‘spouse’, with respect to an individual, means the individual who was lawfully married to such individual at the time of death.

(B) The term ‘child’ includes a recognized natural child, a stepchild, or adopted child of such individual in a parent-child relationship, and an adopted child.

(C) The term ‘parent’ includes fathers and mothers.

(f) APPLICATION.—(1) A person seeking payment of a gratuity under subsection (a) shall submit to the Secretary an application therefor in such form and containing such information as the Secretary shall require.

(2) If an individual described in subsection (b) dies before submitting an application for a gratuity under subsection (a), any individual who would be entitled to payment under subsection (e) with respect to such deceased individual may submit an application for such payment under subsection (a).

(g) TREATMENT OF GRATUITY FOR INSURANCE PURPOSES.—(1) A payment under this section shall be considered by the Social Security Administration as a non-taxable payment in the same manner as life insurance proceeds, and for purposes of imposing liability on the individual receiving the payment, or on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker’s compensation payments.

(2) A payment under this section shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker’s compensation.

(h) DEFINITIONS.—In this section:

(1) The term ‘AIDS’ means acquired immune deficiency syndrome.

(2) The term ‘HIV’ means human immunodeficiency virus.

(i) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 5 that is amended by inserting after the item relating to section 1137 the following new item:

‘‘1138. Gratuity for veterans and dependents who contract HIV or AIDS from blood or tissue transplants or from service-connected disabilities.’’.

By Mr. LEATHY (for himself, Mr. JEFFORDS, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, and Mr. DAYTON):

S. 1510. A bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for resident in the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEATHY. Today I am introducing the Permanent Partners Immigration Act, a Senate companion to legislation that Representative NADLER of New York has introduced in the House for each of the last three Congresses. This legislation would allow U.S. citizens and lawful permanent residents to petition for their foreign same-sex partners to come to the United States under our family immigration system. I am pleased to be joined in introducing this bill by Senators JEFFORDS, FEINGOLD, KENNEDY, and KERRY.

Under current law, committed partners of Americans are unable to use the family immigration system, which accounts for about 75 percent of the green cards and immigrant visas granted annually by the United States. As a result, gay Americans who are in this situation must either: leave their country if they want to live legally and permanently with them.

This bill rectifies that situation, while retaining strong prohibitions against fraud. To qualify as a permanent partner, petitioners must prove that they are at least 18 and in a committed, intimate relationship with another adult in which both parties intend a lifelong commitment, and are financially interdependent with one’s partner. They must also prove that they are not married to, or in a permanent partnership with, anyone other than that person and that they are unable to contract with that person a marriage cognizable under the Immigration and Nationality Act. Proof could include sworn affidavits from friends and family and documentation of financial interdependence. Penalties for fraud would be the same as penalties for marriage fraud—up to five years in prison and $250,000 in fines for the U.S. citizen and deportation for the alien partner.

There are Vermonters who are involved in permanent partnerships with foreign nationals and who have felt abandoned by our laws in this area. This bill would allow them—and other gay and lesbian Americans throughout the world, who are in committed, intimate relationships with their partners, to come to the United States under our immigration system.

The idea that immigration benefits should be extended to same-sex couples has become increasingly prevalent around the world. Indeed, fifteen nations Australia, Belgium, Canada, Denmark, Finland, France, Germany, Iceland, Israel, the Netherlands, New Zealand, Norway, South Africa, Sweden and the United Kingdom—recognize same-sex couples for immigration purposes.

Our immigration laws treat gays and lesbians in committed relationships as second-class citizens, and that needs to change. It is the right thing to do for the people involved, it is the sensible step to take in the interest of having a fair and consistent policy, and I hope that the Senate will act.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE.—This Act may be cited as the “Permanent Partners Immigration Act of 2003.”

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be to that section or provision in the Immigration and Nationality Act.

SEC. 2. DEFINITIONS.

Section 101(a) (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(K)(ii), by inserting “or permanent partnership” after “marriage”; and

(2) by adding at the end the following:

“(51) The term ‘permanent partner’ means an individual 18 years of age or older who—

(A) is in a committed, intimate relationship with another individual 18 years of age or older in which both parties intend a lifelong commitment;

(B) is financially interdependent with that other individual;

(C) is not married to or in a permanent partnership with anyone other than that other individual;

(D) is unable to contract with that other individual a marriage cognizable under this Act; and

(E) is not a first, second, or third degree blood relation of that other individual.

(52) The term ‘permanent partnership’ means the relationship that exists between two permanent partners.”

SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.


(1) in the heading, by inserting “permanent partner,” after “spouses;”;

(2) by inserting “or permanent partner” after “spouse” each place such term appears; and

(3) by striking “remarries” and inserting “remarries or enters a permanent partnership with another person” after “spouses.”

SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.

(a) PER COUNTRY LEVELS.—Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended—

(1) in the heading, by inserting “permanent partners,” after “spouses;”;

(2) in subparagraph (A), in the heading by inserting “permanent partners,” after “spouses;” and

(3) in subparagraph (C), in the heading by inserting “without permanent partners” after “daughters.”

(b) RULES FOR CHARGEABILITY.—Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended—

(1) by inserting “or permanent partner” after “spouse” each place such term appears; and

(2) by inserting “or permanent partners” after “husband and wife.”

SEC. 5. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY MEMBERS OF PERMANENT RESIDENT ALIENS.—Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended—

(1) in the heading—

(A) by striking “and” and inserting “or”;

(B) by striking “or” and inserting “and”;

(C) by striking “sisters, brothers, and” and inserting “sisters, brothers, and”;

(D) and after “after”;(E) by inserting “or permanent partners” after “sons” and after “daughters”; and

(2) in subparagraph (A), by inserting “permanent partners,” after “spouses;” and

(b) by inserting “without permanent partners” after “sons” and after “daughters.”

(c) PREFERENCE ALLOCATION FOR SONS AND DAUGHTERS.—Section 203(b)(1)(A)(ii) (8 U.S.C. 1153(b)(1)(A)(ii)) is amended—

(1) in the heading, by inserting “and daughters and sons with permanent partners” after “daughters”; and

(2) by inserting “or daughters or sons with permanent partners” after “daughters.”

(c) EMPLOYMENT CREATION.—Section 203(b)(5)(A)(iii) (8 U.S.C. 1153(b)(5)(A)(iii)) is amended—

(1) in the heading, by inserting “permanent partners,” after “spouses;” and

(2) by inserting “or permanent partners” after “spouses.”
amended by inserting "permanent partner," after "spouse,".

(d) TREATMENT OF FAMILY MEMBERS.—Section 203(d) (8 U.S.C. 1153(d)) is amended by inserting, before the period "person," after "spouse" each place such term appears.

SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

(a) CLASSIFICATION Petitions.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended—

(i) in subparagraph (A)(i), by inserting "or permanent partner" after "spouse";

(ii) in subparagraph (A)(ii), by inserting "permanent partner," after "spouse";

(iii) in subparagraph (B), by inserting "or permanent partner" after "spouse" each place such term appears.

(b) IMMIGRATION FRAUD PREVENTION.—Section 203(c) (8 U.S.C. 1154(c)) is amended—

(i) by inserting "or permanent partner" after "spouse" each place such term appears; and

(ii) in subparagraph (B), by inserting "or permanent partner" after "marriage" each place such term appears.

(c) TERMINATION OF STATUS IF FINDING THAT QUALIFYING Marriage IMPROPER.—Section 216A(f)(2) (8 U.S.C. 1186a(f)(2)) is amended—

(1) in the heading, by inserting "or permanent partner" after "spouse"; and

(ii) (A) by inserting "or permanent partner" after "spouse" each place such term appears; and

(B) by inserting "or permanent partner" after "marriage" each place such term appears.

Subsection (c) of section 216A(f)(2) (8 U.S.C. 1186a(f)(2)) is amended and restated to read as follows:

"Section 216A(f)(2) (8 U.S.C. 1186a(f)(2)) is amended—

(1) in the heading, by inserting "or permanent partner" after "spouse";

(2) in subparagraph (A), by inserting "or permanent partner" after "spouse";

(3) in paragraph (2)(B), by inserting "or permanent partner" after "spouse";

(4) in paragraph (2), by inserting "or permanent partner" after "spouse";

(5) in paragraph 2, by inserting "or permanent partner" after "spouse" each place such term appears.

SEC. 8. ASYLUM.

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended—

(a) in paragraph (1), by inserting "or permanent partner" after "spouse";

(b) in paragraph (2), by inserting "or permanent partner" after "spouse".

SEC. 9. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.

(a) SECTION HEADING.—Section 216A(a) (8 U.S.C. 1186a(a)) is amended in the heading by inserting "and permanent partners and sons and daughters" after "spouse.

(b) IN GENERAL.—The section heading for section 216 (8 U.S.C. 1186a) is amended by inserting "AND PERMANENT PARTNERS" after "SPUSES".

(c) CLERICAL AMENDMENT.—The table of contents is amended by adding the item relating to section 216 to read as follows:

"Sec. 216. Conditional permanent resident status for certain alien spouses and permanent partners and sons and daughters.."

SEC. 10. WAIVER OF INADMISSIBILITY FOR MISREPRESENTATION.

(a) Waiver of Inadmissibility for Misrepresentation.—Section 212(i)(3)(A) (8 U.S.C. 1182(i)(3)(A)) is amended—

(1) in the heading, by inserting "or permanent partner" after "spouse";

(2) by inserting "permanent partner," after "spouse";

(b) Waivers of Inadmissibility for Criminal and Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner" after "spouse," each place such term appears.

(c) Waivers of Inadmissibility on Health-Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner" after "spouse".

(d) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner" after "spouse".

(e) Waiver of Inadmissibility for Misrepresentation.—Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended—

(1) in the heading, by inserting "or permanent partner," after "spouse";

(2) by inserting "permanent partner," after "spouse";

(f) Waivers of Inadmissibility for Criminal and Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner," after "spouse";

(g) Waivers of Inadmissibility on Health-Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner" after "spouse".

(h) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partner" after "spouse".

(i) Waivers of Inadmissibility for Misrepresentation.—Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended—

(1) in the heading, by inserting "or permanent partner," after "spouse";

(2) by inserting "permanent partner," after "spouse";

(3) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(j) Waivers of Inadmissibility on Health-Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partnership" after "marriage".

(k) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 212(i)(1)(A) (8 U.S.C. 1182(i)(1)(A)) is amended by inserting "permanent partnership" after "marriage".

SEC. 11. NONIMMIGRANT STATUS FOR PERMANENT PARTNERS AWAITING AVAILABILITY OF AN IMMIGRANT VISA.

(a) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended—

(i) in the heading, by inserting "or permanent partnership" after "marriage";

(ii) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(iii) in paragraph (3), by inserting "or permanent partnership" after "marriage";

(b) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended—

(i) in the heading, by inserting "or permanent partnership" after "marriage";

(ii) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(iii) in paragraph (3), by inserting "or permanent partnership" after "marriage".

SEC. 12. NONIMMIGRANT STATUS FOR PERMANENT PARTNERS AWAITING AVAILABILITY OF AN IMMIGRANT VISA.

(a) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended—

(i) in the heading, by inserting "or permanent partnership" after "marriage";

(ii) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(iii) in paragraph (3), by inserting "or permanent partnership" after "marriage";

(b) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended—

(i) in the heading, by inserting "or permanent partnership" after "marriage";

(ii) in paragraph (2), by inserting "or permanent partnership" after "marriage";

(iii) in paragraph (3), by inserting "or permanent partnership" after "marriage".

SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.

(a) General.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended in the matter following subparagraph (I) by inserting "or permanent partner" after "spouse".

(b) Waivers of Inadmissibility.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse";

(iii) in paragraph (3), by inserting "or permanent partner" after "spouse".

(c) Waivers of Inadmissibility on Health-Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".

(d) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".

(e) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".

(f) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".

(g) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".

(h) Waivers of Inadmissibility on Criminal and Related Grounds.—Section 216A(c) (8 U.S.C. 1186b(c)) is amended—

(i) in paragraph (1), by inserting "or permanent partner" after "spouse";

(ii) in paragraph (2), by inserting "or permanent partner" after "spouse".
"(I) Permanent Partnership Fraud.—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 221(a)(1) of the Act) in the United States if such term appears.

(ii) the alien provides any testimony or claim of the alien permanent partner or other documentation procured on the basis of a permanent partnership entered into less than 2 years prior to such admission and which was subsequently to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that such permanent partnership was not contracted for the purpose of evading any provisions of the immigration laws; or

(ii) it appears to the satisfaction of the Secretary of Homeland Security that the alien has failed or refused to fulfill the alien’s permanent partnership which in the opinion of the Secretary of Homeland Security was made for the purpose of procuring the alien’s admission as an immigrant.

(2) in paragraph (2)(E)(i), by inserting “permanent partner” after “spouse” each place such term appears; and

(3) in paragraph (3)(C)(ii), by inserting “permanent partner” after “spouse” each place such term appears.

(b) Technical and Conforming Amendments.—Section 237(f)(8U.S.C. 1229a(f)) is amended by inserting “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”.


Section 239(b)(8U.S.C. 1229b(b)) is amended by inserting “permanent partner” after “spouse”.

SEC. 16. Cancellation of Removal; Adjustment of Status.

Section 240A(b)(8U.S.C. 1229b(b)) is amended—

(1) in paragraph (1)(D), by inserting “permanent partner” after “spouse”;

and

(2) in paragraph (2)—

(A) in the heading, by inserting “permanent partner” after “spouse”; and

(B) in subparagraph (A), by inserting “permanent partner” after “spouse” each place such term appears.

SEC. 17. Adjustment of Status of Non-Immigrants Admitted for Permanent Residence.

(a) Prohibitions on Adjustment of Status.—Section 245(d)(8U.S.C. 1225d(d)) is amended by inserting “permanent partner” after “marriage”.

(b) Avoiding Immigration Fraud.—Section 245(e)(8U.S.C. 1225e(e)) is amended—

(1) in paragraph (1), by inserting “permanent partner” after “marriage”;

and

(2) by striking at the end the following:

“(4) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership unless the applicability is established by clear and convincing evidence to the satisfaction of the Secretary of Homeland Security that the permanent partnership was entered into in good faith and (a) in accordance with section 101(a)(31) and the permanent partnership was not entered into for the purpose of procuring the alien’s admission as an immigrant and no fee is charged; or (b) the consideration given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under sections 204(a) or 245(d) with respect to the alien permanent partner. In accordance with regulations, there shall be only one level of administrative appellate review for each previous sentence.

(c) Adjustment of Status for Certain Aliens Paying Fee.—Section 245(i)(1)(B) (8U.S.C. 1255(i)(1)(B)) is amended by inserting “permanent partner” after “spouse”.

(d) Informants.—Section 245(j)(8U.S.C. 1255(j)) is amended by inserting “permanent partner” after “spouse” each place such term appears.

(e) Technical and Conforming Amendments.—Section 245(k)(8U.S.C. 1255(k)) is amended by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”.

SEC. 18. Misdemeanor and Concealment offacts.

Section 316(b)(8U.S.C. 1327(b)) is amended, in the matter following paragraph (2), by inserting “permanent partner” after “spouse”.


Section 324(a)(8U.S.C. 1430(a)) is amended, in the matter following “September 22, 1922,” by inserting “permanent partner” after “marriage” each place such term appears.


Section 1504 of division B of the Miscellaneous Appropriations Act, 2003, as enacted into law by section 3(a)(4) of Public Law 108-554, is amended—

(1) in the section heading, by inserting “Permanent Partners” after “Spouses”;

(2) in subsection (a), by inserting “permanent partner” after “spouse”; and

(3) in each of subsections (b) and (c)—

(A) in the subsection headings, by inserting “permanent partner” after “spouse”; and

(B) by inserting “permanent partner” after “spouse” each place such term appears.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator LEAHY in the introduction of the Permanent Partners Immigration Act, to address the injustice in immigration law on gay and lesbian couples.

The reunification of families is one of the cornerstones of our immigration policy. The American Dream is about opportunity and it is about family life as well. When one member of a family comes to the United States alone, we try to make it possible for their spouse, children, and siblings to join them in the future.

Every year, our immigration policy reunites hundreds of thousands of families. In 2002, almost 400,000 immigrants came to the United States to join spouses who are citizens or legal permanent residents. Thousands more siblings and children joined mothers, fathers, brothers, and sisters.

Shamefully, though, our current law left thousands of other families permanently divided. Because of their sexual orientation, lesbian and gay couples are kept apart, or forced to stay together illegally, with one partner in constant fear of deportation. They are denied the half of the American Dream that we offer to other citizens and immigrants.

Our bill will remedy this injustice. It gives the same-sex permanent partners of citizens and permanent residents the opportunity to join their loved ones in our country. They must meet strict standards of eligibility, like those applied to spouses. To gain entrance, they must prove that they are financially interdependent with their partners in the United States and that they are in a lifelong relationship.

One of our measures is that trading partners already grant immigration benefits to same-sex couples. Now, by bringing family reunification to all of our citizens and residents, our bill recognizes the common humanity of gay and lesbian Americans. It is time for Congress to act on this issue, and I urge my colleagues to support this important step in making our immigration laws fairer.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1511. A bill to designate the Department of Veterans Affairs Medical Center in Prescott, Arizona, the “Bob Stump Department of Veterans Affairs Medical Center”; to the Committee on Veterans’ Affairs.

Mr. KYL. Mr. President, today Senator BYRD and Senator ENZI introduced legislation to rename the VA Medical Center in Prescott, AZ, to honor our colleague Bob Stump, who died on June 20. This legislation was introduced by Congressman Jim Kolbe and the other seven Arizona House Members on July 21.

I had the pleasure of serving with Bob Stump in the House of Representatives in the late 1980s and early 1990s. He was a fine man, and a great public servant. A patriot and a hard-working legislator, he did not seek headlines or glory, preferring to work quietly, without fanfare, on behalf of Arizona’s interests—and the Nation’s.

For Bob Stump, actions were louder than words. He didn’t say much, but you always knew where he stood.

Before coming to Congress, Bob served in both houses of the Arizona legislature from 1959 to 1976—that final year as president of the Arizona State Senate. His congressional tenure culminated in his six years as Chairman of the House Committee on Veterans’ Affairs, a perch from which he improved the lives of his fellow veterans in innumerable ways. As Chairman of the House Armed Services Committee for two years, he helped to ensure America’s military readiness by advocating tirelessly for better U.S. military technology and protecting the important work underway at Arizona’s military bases.

Bob’s concern for the military, of course, was personal. When he entered the Navy to serve his country in time of war, he was all of 16 years old. He spent three years, 1943 to 1946, as a medic on the U.S.S. Tulagi. He was determined to protect Arlington National Cemetery and to see to it that a World War II memorial was approved for construction on the Mall here in Washington.
Bob Stump's work to promote the welfare of current and past members of the Armed Services is well-known to Arizona's veterans. By naming the Prescott VA Health Center in his honor, we will ensure that his exemplary character and contributions are remembered by all those who pass through its doors in the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA.

(a) DESIGNATION.—The Department of Veterans Affairs Medical Center located in Prescott, Arizona, is hereby designated as the "Bob Stump Department of Veterans Affairs Medical Center.

(b) REFERENCES.—Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Bob Stump Department of Veterans Affairs Medical Center.

Mr. MCCAIN. Mr. President, I am proud to join Senator Kyl in introducing legislation that would rename the Veterans Administration medical center in Prescott, AZ after Bob Stump.

In June of this year, Arizonans suffered a major loss with the passing of Bob Stump, a native son who made his mark for our State and our Nation. Congressman Stump had a patriot's devotion to those who served our country in uniform. He will be deeply missed by his friends, family and a grateful Nation.

Congressman Stump served his country and the residents of Arizona admirably in the United States Navy, during World War II, in the Arizona State legislature; and in the United States Congress.

Congressman Stump's service in the House of Representatives was marked by his dedication to his constituents in Arizona. Never one for the trappings of a political office, Bob read and responded to all of his mail, he never had Press Secretary and often answered the office phone personally.

One could not overlook his leadership in Defense and Veterans issues. Serving as Chairman of the Veterans Affairs Committee, his work has so beneficial to America's veterans that a street in Arlington National Cemetery was named after him. Everywhere I travel, veterans remark to me that Bob Stump put Veterans needs first.

Bob's strong leadership of the House Armed Services Committee helped usher in many of the technological advances that characterize our modern military.

This legislation serves as a memorial to a member of Congress who left an indelible legacy.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1512. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income and wages withholding property tax rebates to volunteer firefighters and emergency medical responders; to the Committee on Finance.

Mr. DODD. Mr. President, I am pleased to rise today with my colleague Senator Lieberman. The legislation that would amend the Internal Revenue Code to exclude property tax abatements, provided by local governments to volunteer firefighters and emergency medical responders, from the definition of income and wages. Congressman John Larson of Connecticut introduced identical legislation in the House.

Seventy-five percent of firefighters in our country are volunteers. Unfortunately, statistics show that the number of volunteer firefighters and emergency responders have been declining in past years at an alarming rate. The number of volunteer firefighters around the country has declined by 5 to 10 percent since 1983, while the number of emergency calls made has sharply increased.

Many municipalities throughout the country, including the State of Connecticut, offer stipends and property tax abatements of up to $1,000 per year to volunteer firefighters, emergency medical technicians, paramedics, and ambulance drivers. These incentives have helped local fire departments in their volunteer recruitment efforts throughout the country.

Last year the IRS ruled that property tax abatements to volunteers should be treated as wages and income. This ruling would undermine the efforts of localities across the country to recruit more volunteer firefighters.

The bill that Senator Lieberman and I are introducing amends the Internal Revenue Code to exclude property tax abatements and stipends for volunteer firefighters and emergency medical responders from the definition of income and wages. This bill would allow local governments around the country to continue providing these incentives to their volunteer firefighters and emergency medical responders.

The President has recently called for American communities to hold full-time employment, it is often too difficult for them to take time away from their families without some form of compensation. A $1,000 property tax break is not a large request for the great service these men and women provide to our communities. They risk their lives for others. The least we can do is allow States and towns to offer them modest incentives to serve.

This IRS ruling undermines the good intentions and creative efforts of many localities. If our municipalities are willing to forgo their local tax revenues in order to ensure they have enough volunteer firefighters and emergency service providers to protect their communities, and if members of the community are doing their part by volunteering, then we, as a country should do our part and support local efforts to ensure that all our communities have adequate protection. And that is what our bill will ensure.

I hope that our colleagues will join us in supporting this legislation so that we can ensure that state and local governments have the flexibility to design and implement recruiting and retention programs that benefit not only the volunteer firefighters and emergency medical providers, but also the communities they protect.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM INCOME AND EMPLOYMENT TAXES FOR VETERANS AND MILITARY VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

(a) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 140 as section 140A and by inserting after section 139 the following new section:

"SEC. 140. PROPERTY TAX REBATES AND OTHER BENEFITS PROVIDED TO VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL RESPONDERS.

"(a) EXCLUSION FROM GROSS INCOME.—

"(1) IN GENERAL.—The term 'qualified property tax rebate or other benefit' means a rebate of real or personal property taxes, or any other benefit, provided by a State or political subdivision on account of services performed as a member of a qualified volunteer emergency response organization.

"(2) QUALIFIED VOLUNTEER EMERGENCY RESPONSE ORGANIZATION.—The term 'qualified volunteer emergency response organization' means any volunteer organization—

"(A) which is organized and operated to provide firefighting or emergency medical services for persons in the State or political subdivision, as the case may be, and

"(B) which is required (by written agreement) by the State or political subdivision to furnish firefighting or emergency medical services in such State or political subdivision."

(b) EXCLUSION FROM EMPLOYMENT TAXES.—
MRS. HUTCHISON. Mr. President, I am pleased to introduce legislation to address concerns regarding the operation of charitable foundations.

We have seen incidents of abuse by a few foundations have raised legitimate concerns about whether these entities are properly focusing resources on their philanthropic missions. In some cases, excessive amounts have gone toward administrative costs, high executive salaries and expensive travel.

My bill will help to ensure that more money is spent on charitable activities and that those who abuse the system are properly punished.

One proposal I support is included in the House version of the CARE Act, H.R. 7, the Charitable Giving Act of 1003. It would reduce the excise tax on investment income for foundations from two percent to one percent, allowing foundations to keep more money so they can direct it to those in need.

However, we must ensure this money actually goes toward the charitable activities for which it is intended. The House bill tries to do this by preventing any administrative costs from being counted as part of the five percent annual distribution requirement foundations must meet. While the legislation moves in the right direction, the language is too broad and may inadvertently punish some foundations that are acting responsibly.

Many foundations will find it difficult to earn the returns necessary to maintain their underlying endowments and cover the excise tax in addition to all administrative costs. This could lead to a diminished ability to fulfill their missions over time, as underlying endowments are eroded as a result of unintended consequence. Some foundations may meet this challenge by reducing important, legitimate spending such as on legal compliance.

The legislation I am introducing will better address these issues. First, I agree we should reduce the excise tax on foundations from two percent to one percent. I also agree we should consider limiting which administrative expenses are counted as distributions. However, I propose doing so in a more defined manner.

My bill would exclude general overhead expenses, management salaries and excessive travel expenses from being counted as distributions. It will allow expenses directly attributable to administering grants and direct charitable giving, as well as expenses related to maintaining legal compliance, to continue to be included.

By focusing these restrictions on the expenses which tend to be the source of abuse, we can deal with the root issues while minimizing unintended consequences.

My bill also goes further than other proposals in penalizing wrongdoers. It will raise the penalty for those who abuse the system by “self-dealing” from a five percent to a 25 percent excise tax on the amounts involved.

My bill will lower the net investment tax, tighten the regulations allowing administrative expenses to be counted as distributions, and increase penalties for those abusing the system. It does so with drastic measures that could lead to a decrease in one of the long-term. Together these measures will instill more discipline on the foundation community and result in more money going to worthy causes.

I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1514. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE, ETC. (a) SHORT TITLE.—This Act may be cited as the “Philanthropy Expansion and Responsibility Act of 2003.”

(b) AMENDMENT OF 1966 CODE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be made to, or the provision to which the reference is made, in the section or other provision of the Internal Revenue Code of 1966.

SEC. 2. REFORM OF CERTAIN EXCISE TAXES RELATING TO PRIVATE FOUNDATIONS.

(a) REDUCTION OF TAX ON NET INVESTMENT INCOME.—Section 4940(a) (relating to tax-exempt foundations) is amended by striking “2 percent” and inserting “1 percent.”

(b) REPEAL OF REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENT.—Section 4940(b) (relating to excise tax based on investment income) is amended by striking subsection (e).

(c) PUBLIC ACCOUNTABILITY.—Section 4941(c)(1) (relating to initial excise tax imposed on self-dealer) is amended by striking “2 percent” and inserting “1 percent.”

(d) MODIFICATION OF EXCISE TAX ON FAILURE TO DISTRIBUTE INCOME.—(1) Certain administrative expenses not treated as distribution. (A) IN GENERAL.—Section 4942(d)(1)(A) (defining qualifying distributions) is amended by striking “including that portion of reasonable and necessary administrative expenses and the amount charged for investment management and other benefit (as defined in section 140(b))” and inserting “including that portion of reasonable and necessary administrative expenses which are directly attributable to direct charitable activities, grant selection activities, grant monitoring and administration activities, compliance with applicable Federal, State, or local law, or furthering public accountability of the private foundation, except as provided in paragraph (4)”.

(B) LIMITATIONS.—Section 4929(b) is amended by striking paragraph (4) and inserting the following new paragraph: “(4) LIMITATION ON ADMINISTRATIVE EXPENSES TREATED AS DISTRIBUTIONS.—For purposes of paragraph (3)(A), the following administrative expenses shall not be treated as qualifying distributions: (A) Any compensation paid to persons who are considered disqualified persons.

(B) Any travel expenses incurred for travel outside the United States.

(C) Any travel expenses incurred for transportation by air solely from one point in the United States to another point in the United States via first-class transportation on a commercial aircraft or via a private aircraft.

(D) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of paragraphs (1) and (4). Such regulations shall provide that administrative expenses which are excluded from qualifying distributions solely by reason of the limitations in paragraph (1) or (4) shall not subject a private foundation to any other excise taxes imposed by this subchapter.”.

(2) DISALLOWANCE NOT TO APPLY TO CERTAIN PRIVATE FOUNDATIONS. (A) IN GENERAL.—Section 4942(f)(3) (defining operating foundation) is amended—(i) by striking “(within the meaning of paragraph (1) or (2) of subsection (g))” each place it appears, and (ii) by adding at the end the following new sentence: “For purposes of this paragraph, the term ‘qualifying distributions’ means qualifying distributions within the meaning of paragraph (1) or (2) of subsection (g) (determined without regard to subsection (g)(4)).”.

(B) CONFORMING AMENDMENT.—Section 4942(f)(2)(C)(i) is amended by inserting “(determined without regard to subsection (g)(4))” after “within the meaning of subsection (g)(1)(A)”.

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.
these subjects, and to other students; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I am proud to introduce the Higher Education for Freedom Act. This bill will establish a competitive grant program making funds available to institutions of higher education, centers within such institutions, and associated non-profit foundations to promote programs focused on the teaching and study of traditional American history and government, and the history and achievements of Western Civilization, at both the graduate and undergraduate level, including those that serve students enrolled in K-12 teacher education programs.

Today, more than ever, it is important to preserve and defend our common heritage of freedom and civilization, and to ensure that future generations of Americans understand the importance of traditional American history and the principles of free government on which this Nation was founded. This basic knowledge is not an essential part of our citizenship in America's civic life, but also to the continued success of the American experiment in self-government, and to the risk losing much of what it means to be an American, as well as the ability to fulfill the fundamental responsibilities of citizens in a democracy.

However, college students' lack of historical literacy is quite startling, and too few of today's colleges and universities are focused on the task of imparting this crucial knowledge to the next generation. One survey of students at America's top colleges reported that seniors could not identify Valley Forge, words from the Gettysburg Address, or even the basic principles of the U.S. Constitution. Given high school level American history questions, 81 percent of the seniors would have received a D or F, the report found.

One college professor even informed me that her students did not know which side Lee was on during the Civil War, or whether the Russians were allies or enemies in World War II. A student she's even asked why anyone should care what the Founding Fathers wrote.

Thomas Jefferson once wrote, "If a nation expects to be ignorant—and free—in a state of civilization, it expects what never was and never will be." I believe the time has come for Congress to do something to promote the teaching of traditional American history at the postsecondary level, and I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 1. ELIGIBLE INSTITUTION.—The term "eligible institution" means—

(A) an institution of higher education;

(B) a specific program within an institution of higher education; and

(C) a non-profit history or academic organization associated with higher education whose mission is consistent with the purposes of this Act.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Given the increased threat to American ideals in the trying times in which we live, it is important to preserve and defend our common heritage of freedom and civilization and to ensure that future generations of Americans understand the importance of traditional American history and the principles of free government on which this Nation was founded in order to provide the basic knowledge that is essential to full and informed participation in civic life and to the larger vibrancy of the American experiment in self-government, binding together a diverse people into a single Nation with a common purpose.

(2) However, despite its importance, most of the Nation's colleges and universities no longer require United States history or systematic study of Western civilization and free institutions as a prerequisite to graduation.

(3) In addition, too many of our Nation's elementary and secondary school history teachers lack the training necessary to effectively teach American history, due largely to the inadequacy of their teacher preparation.

(4) Distinguished historians and intellectual leaders have stated that without a common civic memory and a common understanding of the remarkable individuals, events, and ideas that have shaped our Nation and its free institutions, the people in the United States risk losing much of what it means to be an American, as well as the ability to fulfill the fundamental responsibilities of citizens in a democracy.

(b) PURPOSES.—The purposes of this Act are to promote and sustain postsecondary academic centers, institutes, and programs that offer undergraduate and graduate courses, support research, and develop teaching materials for developing and imparting a knowledge of traditional American history, the American Founding, and the history and nature of, and threats to, free institutions, or of the nature, history, and achievements of Western Civilization, particularly—the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history and the American experiment in self-government; and the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(a) ELIGIBLE INSTITUTION.—The term "eligible institution" means—

(A) an institution of higher education;

(B) a specific program within an institution of higher education; and

(C) a non-profit history or academic organization associated with higher education.

(b) GRANTS TO ELIGIBLE INSTITUTIONS.

The Secretary shall award grants on a competitive basis, to eligible institutions, which grants shall be used for—

(A) history teacher preparation initiatives, that—

(1) stress content mastery in traditional American history and the history and achievements of Western Civilization, such as democracy, individual rights, market economics, religious freedom and tolerance, and freedom of thought and inquiry.

(2) Free Institution.—The term "free institution" means an institution that emerged out of Western Civilization, such as democracy, individual rights, market economics, religious freedom and tolerance, and freedom of thought and inquiry.

(3) Higher Education.—The term "Higher Education" has the same meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) Secretary.—The term "Secretary" means the Secretary of Education.

(5) Traditional American History.—The term "traditional American history" means—

(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history and the American experiment in self-government; and

(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

[c] GRANTS TO ELIGIBLE INSTITUTIONS.

(1) IN GENERAL.—From amounts appropriated to carry out this Act the Secretary shall award grants on a competitive basis, to eligible institutions, which grants shall be used for—

(A) history teacher preparation initiatives, that—

(1) address the needs of the Nation's elementary and secondary schools, and

(2) are consistent with the purposes of this Act.

(B) research supporting the development of teaching materials, for the purpose of developing undergraduate and graduate programs; and

(C) the support of faculty teaching in undergraduate and graduate programs.

(2) Competitive Grants To Strengthen Postsecondary Programs.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall establish criteria by regulation, which shall, at a minimum, consider the education value and relevance of the institution's programming to carrying out the purposes of this Act and the expertise of key personnel in the area of traditional American history and the principles on which the American political system is based, including the history and philosophy of free institutions, and the study of Western civilization; and

(A) stress content mastery in traditional American history and the history and achievements of Western Civilization, such as democracy, individual rights, market economics, religious freedom and tolerance, and freedom of thought and inquiry.

(B) Free Institution.—The term "free institution" means an institution that emerged out of Western Civilization, such as democracy, individual rights, market economics, religious freedom and tolerance, and freedom of thought and inquiry.

(C) Higher Education.—The term "higher education" has the same meaning given that term under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(D) Non-profit.—The term "non-profit" means an institution that is not profit-making.

(E) Traditional American History.—The term "traditional American history" means—

(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history and the American experiment in self-government; and

(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.
The presence of invasive species compounds the drought situation in many states. For instance, New Mexico is home to a vast amount of Salt Cedar. Salt Cedar is a water-thirsty non-native tree that continually strips massive amounts of water out of New Mexico’s two predominant water supplies, the Pecos and the Rio Grande rivers. Weather-related and numerous catastrophic fires in our Nation’s forests including the riparian woodland—the Bosque—that runs through the heart of New Mexico’s most populous city. One of the reasons this fire ran its course is the presence of large amounts of Salt Cedar, a plant that burns as easily as it consumes water.

Estimates show that one mature Salt Cedar tree can consume as much as 200 gallons of water per day; over the growing season that is 7 acre-feet of water for each acre of Salt Cedar. In addition to the excessive water consumption, Salt Cedars increase fire frequency, decrease water flow, and increase water and soil salinity along the river. Every problem that drought causes is exacerbated by the presence of Salt Cedar.

I know that the seriousness of the water situation in New Mexico becomes more acute every single day. This drought has affected every New Mexican and nearly everyone in the west in some way. Wells are running dry, farmers are being forced to sell livestock, many of our cities are in various stages of conservation and many, many acres have been charred by fire.

Drought and the mounting legal requirements on both the Pecos and Rio Grande rivers are forcing us toward a severe water crisis in New Mexico. Indeed, every river in the inter-mountain west seems to be facing similar problems. Therefore, we must bring to bear every tool at our disposal for dealing with the water shortages in the west.

Solving such problems is one of my top priorities and I assure this Congress that this bill will receive prompt attention by the Energy and Natural Resources Committee. Controlling water thirsty invasive species is one significant and substantial step in the right direction for the dry lands of the west.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Salt Cedar Control Demonstration Act”.

SEC. 2. FINDINGS.
Congress finds that—
(1) the western United States is currently experiencing its worst drought in modern history;
(2) it is estimated that throughout the western United States salt cedar and Russian olive—
(A) occupy between 1,000,000 and 1,500,000 acres of land; and
(B) are non-beneficial users of 2,000,000 to 4,500,000-acre-feet of water per year;
(3) the quantity of supplemental use of water by salt cedar and Russian olive is greater than the quantity that valuable native vegetation would use;
(4) the salt cedar and Russian olive infestation is located on Bureau of Land Management land or other land of the Department of the Interior;
(5) as drought conditions and legal requirements relating to water supply accelerate water shortages, innovative approaches are needed to address the increasing demand for a diminishing water supply.

SEC. 3. SALT CEDAR AND RUSSIAN OLIVE ASSESSMENT AND DEMONSTRATION PROGRAM.
(a) ESTABLISHMENT.—In furtherance of the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4600), the Secretary of the Interior, acting through the Commissioner of Reclamation (hereafter referred to in this Act as the “Secretary”), shall carry out a salt cedar and Russian olive assessment and demonstration program to—
(1) assess the extent of the infestation of salt cedar and Russian olive in the western United States; and
(2) develop strategic solutions for long-term management of salt cedar and Russian olive.
(b) ASSESSMENT.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation in the western United States. The assessment shall—
(1) consider past and ongoing research on tested and innovative methods to control salt cedar and Russian olive;
(2) consider the feasibility of reducing water consumption;
(3) consider methods of and challenges associated with the restoration of infested land;
(4) estimate the costs of destruction of salt cedar and Russian olive, biomass removal, monitoring and maintenance of the infested land; and
(5) identify long-term management and funding strategies that could be implemented by Federal, State, and private land managers.
(c) DEMONSTRATION PROJECTS.—The Secretary shall carry out not more than 5 projects to demonstrate and evaluate the most effective methods of controlling salt cedar and Russian olive. Projects carried out under this subsection shall—
(1) monitor and document any water savings from the control of salt cedar and Russian olive;
(2) identify the quantity of, and rates at which, any water savings under paragraph (1) return to surface water supplies;
(3) assess the best approach and tools for implementing available salt cedar and Russian olive control methods;
(4) assess all costs and benefits associated with control methods and the restoration and maintenance of land;
(5) determine conditions under which removal of biomass is appropriate and the optimal methods for its disposal or use;
(6) define appropriate final vegetative species and optimal revegetation methods; and
(7) identify methods for preventing the re-growth and reintroduction of salt cedar and Russian olive.
(d) CONTROL METHODS.—The demonstration projects carried out under subsection (c) may implement 1 or more control methods per project, but to assess the full range of control mechanisms—
(1) at least 1 project shall use airborne application of herbicides;
(2) at least 1 project shall use mechanical removal; and
(3) at least 1 project shall use biocontrol methods such as goats or insects.

(e) IMPLEMENTATION.—A demonstration project shall be carried out during a time period of 12 years after the date of enactment, and to the extent practicable, shall be managed by the former President and current White House. In this way the order goes against the letter and the spirit of the Presidential Records Act by requiring the NARA to make a presumption of non-disclosure, thus allowing the White House to prevent the release of records simply by inaction.

The President’s order also limits what types of papers are available by expanding the scope of executive privilege into new areas—namely communications between the President and his advisors and legal advice given to the President. Also, former Presidents can now designate third parties to exercise executive privilege on their behalf, meaning that Presidential papers could remain closed many years after a President’s death. These expansions raise serious constitutional questions and cause unnecessary controversy that could end up congesting our already overburdened courts.

(g) COOPERATION.—In carrying out the program, the Secretary shall—

(1) use the expertise of Federal agencies, national laboratories, Indian tribes, institutions of higher education, State agencies, and soil and water conservation districts that are actively conducting research on or implementing salt cedar and Russian olive control activities; and

(2) cooperate with other Federal agencies and States that have local units of government, and Indian tribes.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

(1) $50,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

By Mr. BINGAMAN (for himself and Mr. GRAHAM of Florida):

S. 1517. A bill to revoke and Execu- tive Order relating to procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; to the Committee on Governmental Affairs.

Mr. BINGAMAN. Mr. President, I rise today to reclaim from the White House to prevent the release of records simply by inaction.

The President’s order also limits what types of papers are available by expanding the scope of executive privilege into new areas—namely communications between the President and his advisors and legal advice given to the President. Also, former Presidents can now designate third parties to exercise executive privilege on their behalf, meaning that Presidential papers could remain closed many years after a President’s death. These expansions raise serious constitutional questions and cause unnecessary controversy that could end up congesting our already overburdened courts. My legislation simply seeks to restore a legitimate, streamlined means of carrying out this body’s wishes—making Presidential records available for examination by the public and by Congress.

The administration shouldn’t fear passage of this bill. Any documents that contain sensitive national security information would remain inaccessible, as would any documents pertaining to law enforcement or the deliberative process of the executive branch. Executive privilege for both former and current Presidents would still apply to any papers the White House designates. With these safeguards in place, there is no reason to further hinder access to documents that are in some cases more than twenty years old.

By not passing this bill, the Congress would greatly limit its own ability to investigate previous administrations, not to mention limit the ability of historians and other interested parties to research the past. Knowledge of the past enriches and informs our understanding of the present, and by limiting our access to these documents we undermine our democratic process.

Numerous historians, journalists, archivists and other scholars have voiced their disapproval of Executive Order 13233 because they understand how important access to Presidential papers can be to accurately describing and learning from past events. We here in the Congress cannot afford to surrender our ability to investigate previous Presidential administrations because doing so would remove a vitally important means of ensuring Presidential accountability.

I believe it is time for these documents to become part of the public record. I believe in open, honest, and accountable government, and I do not believe in keeping secrets from the American people. The Presidential Records Act was one of this country’s most vital post-Watergate reforms and it remains vitally important today. In these times when trust in government is slipping more and more every day, we need to send a statement to the American people that we here in Washington don’t need to hide from public scrutiny—that in fact we welcome and encourage public scrutiny. This bill will send just such a message. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVOCATION OF EXECUTIVE ORDER NOVEMBER 1, 2001.

Executive Order number 13233, dated November 1, 2001 (66 Fed. Reg. 56025), shall have no force or effect, and Executive Order number 12267, dated January 18, 1989 (54 Fed. Reg. 4308), shall apply by its terms.

By Mr. ENZI:

S. 1518. A bill to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a bill that will help bring about a more reliable system of medical justice for all Americans.

Earlier this month, we had a robust debate on a critical issue—medical liability reform. Although a majority of the Members of this body wanted to begin working to pass the bill, we didn’t have the 60 Senators necessary to begin the real work on the legislation.

I Co-sponsored that bill, the Patients First Act, and I still support it. Passing the Patients First Act would be an important short-term step to controlling the excesses in our legal system that have sent medical liability insurance premiums through the roof. Skyrocketing premiums are forcing doctors to move their practices to States with better legal environments and lower insurance premiums. This is endangering the availability of critical healthcare services in many areas of Wyoming and other states.

Throughout our debate, I heard many of my colleagues say that they wanted to work on this issue, but that they simply could not support the bill as it stood. I think that the bill approaches the issue from too narrow of a perspective. We heard that the bill’s caps on non-economic damages are unfair to patients, despite the fact that the bill places no limits whatsoever on a doctor’s right to recover all quantifiable economic damages.

While I disagree with my colleagues who oppose the Patients First Act, I
respect their opposition. I also trust that they sincerely want to help solve our Nation's medical liability and litigation crisis.

During the debate this month, I noticed something interesting. While we argue about who's to blame and no one stood up to defend our current system of medical litigation. Now, we heard a lot about the caps, and the insurance industry, and we heard Senators say that "Yes, there is a problem, but the bill before us won't solve it."

Once again, we heard the usual rousing defense of our medical litigation system. Even some of the lawyers in this body agreed that frivolous lawsuits are a problem and that our medical litigation system needs reform.

Why didn't we hear anyone defend the merits of our current medical litigation system? It's because our system doesn't work. It simply doesn't work for patients or for healthcare providers.

Compensation to patients injured by healthcare errors is neither prompt nor fair. The randomness and delay associated with medical litigation does not contribute to timely, reasonable compensation for most injured patients. Some injured patients get huge jury awards, while many others get nothing at all.

Let's look at the facts. In 1991, a group of researchers published a study in the Journal of the American Medical Association. The study, known as the Harvard Medical Practice Study, was the basis for the Institute of Medicine's estimate that nearly 100,000 people die every year from healthcare errors.

As part of their study, the researchers reviewed the medical records of a random sample of more than 31,000 patients in New York State. They matched those records with statewide data on medical malpractice claims. The researchers found that nearly 30 percent of all injuries caused by medical negligence resulted in temporary disability, permanent disability or death. However, less than 2 percent of those who were injured by medical negligence filed a claim. These figures suggest that most people who suffer negligent injuries don't receive any compensation.

When a patient does decide to litigate, only a few recover anything. Only one of every ten medical malpractice cases actually goes to trial, and of those cases, plaintiffs win less than one of every five. In addition, patients who file suit and are ultimately successful must wait a long time for their compensation—the average length of a medical malpractice action filed in state court is about 30 months.

While the vast majority of malpractice cases that go to trial are settled before the court hands down a verdict, the settlements even then don't guarantee compensation. Even when patients are compensated fairly, particularly after legal fees are subtracted. Research shows that for every dollar paid in medical liability insurance premiums, about 40 cents in compensation is actually paid to the plaintiff—the rest goes for legal fees, court costs, and other administrative expenditures.

To sum up: most patients injured by negligence don't file claims or receive compensation. They often file claims and go to court to recover anything, and those who are successful wait a long time for their compensation. And those who settle out of court end up receiving only 40 cents for every dollar that providers pay in liability insurance premiums.

It's hard to say that our medical litigation system does right by patients in light of those facts. Unfortunately, our system doesn't work for healthcare providers either.

Earlier, I spoke about those Harvard researchers who found that fewer than 2 percent of those who were injured by medical negligence even filed a claim. Positive relations between medical negligence and compensation.

In matching the records they reviewed to data on malpractice claims, the Harvard researchers found 47 actual malpractice claims. In only 8 of the 47 claims did they find evidence that medical malpractice had caused an injury. Even more amazingly, the physician reviewers found no evidence of any medical injury, negligent or not, in 26 of the 47 claims. However, 40 percent of these cases where they found no evidence of negligence nonetheless resulted in a payment by the provider. Basically, the researchers found no positive relationship between medical negligence and compensation.

That study was based on 1994 data. The same group of researchers conducted another study in Colorado and Utah in 1996 and 1999 and found the same thing. As in the 1994 study, they found that only 3 percent of patients who suffered an injury as a result of negligence actually sued. And again, physician reviewers could not find negligence in most of the cases in which lawsuits were filed.

Now, I assume that the patients who sued had either an adverse medical outcome, or at least an outcome that was less satisfactory than the patient expected. But our medical liability system is not supposed to compensate patients for adverse outcomes or dissatisfaction—it's supposed to compensate patients who are victims of negligent behavior. It's supposed to be a deterrent to substandard medical care.

It's not fair to doctors and hospitals that they must pay to defend against meritless lawsuits. Nor is it fair that the providers often settle for a small sum, even if they aren't at fault, so that they avoid getting sucked into a whirlpool of our medical litigation system.

It's not hard to understand why physicians and hospitals and their insurers want to stay out of court. When they lose, the decisions are increasingly resulting in mega-awards based on subjective "non-economic" damages. The percent of malpractice awards over $1 million doubled from 1980 to 1984. That number grew by 50 percent between the periods of 1994-1996 and 1999-2000. Today, more than half of all jury awards exceed $1 million.

As a result, when a patient suffers a bad outcome and sues, providers have to decide whether to settle the case out of court, even if the provider isn't at fault. But is this how our medical litigation system is supposed to work—as a tool for shaking down our healthcare providers?

Let's face it—our medical litigation system is broken. It doesn't work for patients or providers. Even worse, it replaces the trust in the provider-patient relationship with distrust.

Then, when courts and juries render verdicts with huge awards that bear no relation to the conduct of the defendant, this destabilizes insurance markets and sends premiums skyrocketing. This forces many physicians to curtail, move or drop their practices, leaving patients without access to necessary medical care. This is a particular problem in states like Wyoming, where we traditionally struggle with recruiting doctors and other healthcare providers.

Perhaps we could live with this flawed system if litigation served to improve quality or safety, but it doesn't. Litigation discourages the exchange of critical information that could be used to improve the quality and safety of patient care. The constant threat of litigation also drives the inefficient, costly and even dangerous practice of "defensive medicine."

Yes, indeed, defensive medicine is dangerous. A recent study found that one of every 1200 children who receive a CAT scan may die later in life from radiation-induced cancer. Knowing this puts a physician faced with anxious parents in a difficult situation. Does the doctor use his or her professional judgment and tell the parents of a sick child not to worry, or does the doctor order the CAT scan and subject the child to radiation that is probably unnecessary, just to provide some protection against a possible lawsuit?

We have a medical litigation system in which many patients who are hurt by negligent actions receive no compensation for their loss. Those who do receive compensation end up with about 40 cents of every premium dollar after legal fees and other costs are subtracted. And the likelihood and the outcomes of lawsuits and settlements bear little relation to whether or not a healthcare provider was at fault.

We like to say that justice is blind. With respect to our medical litigation system, I would say that justice is absent and nowhere to be found.
During our debate on the Patients First Act, I said that the current medical liability crisis and the shortcomings of our medical litigation system make it clear that it is time for a major change. I also said that regardless of who is voted, we all should work toward resolving the current medical tort liability scheme with a more reliable and predictable system of medical justice.

Today, I am introducing a bill that would help achieve that goal.

More familiar with the report on medical errors from the Institute of Medicine, also known as the IOM, which published earlier this year. That report is called “Fostering Rapid Advances in Healthcare: Learning from System Demonstrations.”

Our Secretary of Health and Human Services, Tommy Thompson, challenged the IOM to identify bold ideas that would challenge conventional thinking about some of the most vexing problems facing our healthcare system. In response, an IOM committee developed this report, which identified a set of demonstration projects that could wind up breaking new ground and yield a very high return-on-investment in terms of dollars and health.

Medical liability was one of the areas upon which the IOM committee focused. The IOM suggested that the federal government should support demonstration projects in the states. These demonstrations should be based on “replacing tort liability with a system of patient-centered and safety-focused non-judicial compensation.”

The bill I am introducing today is in the spirit of this IOM report. This bill, the Reliable Medical Justice Act, would authorize funding for States to create demonstration programs to test alternative systems to current medical tort litigation.

The funding to States under this bill would cover planning grants for developing proposals based on the models or other innovative ideas. Funding to States would also include the initial costs of getting the alternatives up and running.

The Reliable Medical Justice Act would require participating states and the Federal Government to collaborate in conducting evaluations of the results of the alternatives as compared to traditional tort litigation. This way, all States and the federal government can learn from new approaches.

By funding demonstration projects, I believe Congress could enable States to experiment with and learn from ideas that could provide long-term solutions to the current medical liability and litigation crisis.

In introducing this bill, I wanted to provide some alternative ideas that could provide long-term solutions to the current medical liability and litigation crisis.

For instance, a State could provide healthcare providers and organizations with immunity from lawsuits if they make a timely offer to compensate an injured patient for his or her actual net economic loss, plus a payment for pain and suffering if experts deem such a payment to be appropriate. This could give a healthcare provider who makes an honest mistake the chance to make amends financially with a patient, without the provider fearing that their honesty would land them in a lawsuit.

An even more dramatic alternative to set up classes of avoidable injuries and a schedule of compensation for them, and then establish an administrative board to resolve claims related to those injuries. A scientifically rigorous process of identifying preventable injuries and setting appropriate compensation would be preferable to the randomness of the current system.

Still another option would be for a state to establish a special healthcare court. This court could be held in malpractice cases. For this idea to work, the State would need to ensure that the presiding judges have expertise in and an understanding of healthcare, and allow them to make binding rulings on issues like causation compensation, and standards of care.

We already have specialized courts for complicated issues like taxes and highly charged issues like substance abuse and domestic violence. With all of the flaws in our current medical litigation system, perhaps we should consider special courts for the complex and emotional issue of medical malpractice.

I believe one thing in our medical liability debate is absolutely clear—people are demanding change. Ten States have passed similar liability reform in the past year, and another 17 have debated it. States are heeding this call for change, and Congress should support and assist those efforts.

My own State, Wyoming, had a lively legislative debate on medical liability reform this year, but we have a constitutional amendment that prohibits limits on the amounts that can be recovered through lawsuits. The Wyoming Senate considered a bill to amend our State’s constitution to create a commission on healthcare errors. That commission would have had the power to review claims, decide if healthcare negligence occurred, and determine the compensation for the death or injury according to a schedule or formula provided by law. However, the bill died in a tie vote on the Wyoming Senate floor.

According to one of the sponsors of the bill, Senator Charlie Scott, one of the biggest obstacles to passage was the uncertainty surrounding this new idea. No one had any basis for knowing what a proper schedule or formula for compensation would be. No one knew how much the system would cost, or how much injured patients would recover compared to what they recover now.

Senator Scott wrote me to say that federal support for finding answers to these questions might help the bill’s sponsors sufficiently respond to the legitimate concerns of their fellow Wyoming legislators. We should be helping state legislators like Senator Scott develop thoughtful and innovative ideas such as the one he has proposed. That’s one of the reasons I am offering this bill.

Clearly, the American people and their elected representatives have identified the need to reform our current medical litigation system. The United States Senate did not vote to proceed to the Patients First Act this month, but no member of this body denied that there is a medical liability crisis, or that Congress needs to act sooner rather than later.

While we continue that debate, we ought to lend a hand to States that are working to change their current medical litigation systems and to develop innovative alternatives that could work much better for patients and providers. The States have been policy pioneers in many areas—workers’ compensation, welfare reform, and electricity deregulation, to name three. Medical litigation should be the next item on the agenda of the laboratories of democracy that are our 50 States.

No one questions the need to restore reliability to our medical justice system. But how do we begin the process? One idea is to foster innovation by encouraging States to develop more rational and predictable methods for resolving healthcare injury claims. And that is what the Reliable Medical Justice Act aims to do.

In the long run, we would all be better off with a more reliable system of medical justice than we have today. I know that my fellow Senators recognize this, so I hope my colleagues on both sides of the aisle will work with me on this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reliable Medical Justice Act.”

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to restore reliability to the medical justice system by fostering alternatives to current medical tort litigation that promote early disclosure of health care errors and provide prompt, fair, and reasonable compensation to patients who are injured by health care errors; and

(2) to support and assist States in developing such alternatives;

SEC. 3. STATE DEMONSTRATION PROGRAMS TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION.

Part P of title III of the Federal Health Service Act (42 U.S.C. 289g et seq.) is amended by adding at the end the following:
"SEC. 3990. STATE DEMONSTRATION PROGRAM TO EVALUATE ALTERNATIVES TO CURRENT MEDICAL TORT LITIGATION."

"(a) IN GENERAL.—The Secretary is authorized to award demonstration grants to States for the development, implementation, and evaluation of alternatives to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations.

"(b) DURATION.—The Secretary may award up to 7 grants under subsection (a) and each grant awarded under such subsection may not exceed a period of 5 years.

"(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

"(I) REQUIREMENTS.—Each State desiring a grant under subsection (a) shall—

(A) develop an alternative to current tort litigation for resolving disputes over injuries allegedly caused by health care providers or health care organizations that may be 1 of the models described in subsection (d); and

(B) establish procedures to allow for patient safety data related to disputes resolved under subparagraph (A) to be collected and analyzed by organizations that engage in voluntary efforts to improve patient safety and the quality of health care delivery, in accordance with guidelines established by the Secretary.

"(II) DEVELOPMENT.—Each State desiring a grant under subsection (a) may establish a scope of activities that improve patient safety, or the quality of health care delivery, in accordance with guidelines established by the Secretary.

"(III) SOURCES OF COMPENSATION.—Each State desiring a grant under subsection (a) shall identify the sources from and methods by which compensation would be paid for claims resolved under the proposed alternative to current tort litigation, which may include public or private funding sources, or a combination of such sources. Funding methods may provide financial incentives for activities that improve patient safety.

"(IV) SCOPE.—Each State desiring a grant under subsection (a) may establish a scope of jurisdiction, including a designated geographic region or a designated area of health care practice for the proposed alternative to current tort litigation, which is sufficient to evaluate the effects of the alternative.

"(V) MODELS.—

(I) IN GENERAL.—Any State desiring a grant under subsection (a) that proposes an alternative described in paragraph (II)(A), (III)(A), or (IV)(A) shall be deemed to meet the criteria under subsection (c)(2).

(II) EARLY DISCLOSURE AND COMPENSATION MODEL.—In the early disclosure and compensation model, the State shall—

(A) provide immunity from tort liability (except in cases of gross negligence or intentional harm) to any health care provider or health care organization that enters into an agreement to pay compensation to a patient after the injury;

(B) set a limited time period during which a health care provider or health care organization may make an offer of compensation pursuant to subparagraph (A), with consideration for instances where prompt recognition of an injury is unlikely or impossible;

(C) require that the compensation provided under subparagraph (A) include—

(i) payment for the net economic loss of the patient, on a periodic basis, reduced by any payments received by the patient under—

(ia) any health or accident insurance;

(ii) any wage or salary continuation plan; or

(iii) any disability income insurance;

(iii) payment for the patient's pain and suffering based on a capped payment schedule developed by the State in consultation with relevant experts; and

(iv) reasonable attorney's fees;

(D) not abridge the right of an injured patient to seek redress through the State tort system if a health care provider does not enter into an agreement with the patient in accordance with subparagraph (A);

(E) prohibit a patient who accepts compensation benefits in accordance with subparagraph (A) to join in the payment of the compensation benefits of any health care provider or health care organization that potentially liable, in whole or in part, for the injury.

(III) ADMINISTRATIVE DETERMINATION OF COMPENSATION MODEL.—

(A) IN GENERAL.—In the administrative determination of compensation model—

(I) the State shall—

(aa) design an administrative entity (in this paragraph referred to as the 'Board') that shall include representatives of—

(aa) relevant State licensing boards;

(bb) patient advocacy groups;

(cc) health care providers and health care organizations; and

(dd) attorneys in relevant practice areas; and

(bb) modify the suggested list of avoidable injuries that will be used by the Board to determine compensation under clause (ii)(III) and, in setting such classes, may consider 1 or more factors, including—

(ii) the severity of the disability arising from the injury;

(bb) the cause of injury;

(bb) the length of time the patient will be affected by the injury;

(dd) the degree of fault of the health care provider or health care organization; and

(dd) any other factors that the State may adopt and their breach;

(iii) modify tort liability, through statute or case, to any professional negligence claims in court against health care providers and health care organizations for classes of injuries established under clause (ii), except in cases of gross negligence or in cases of criminal or intentional harm;

(iv) outline a procedure for informing patients about the modified liability system as described in this paragraph and, in systems where participation by the health care provider, health care organization, or patient is voluntary, allow for the decision by the provider, organization, or patient whether or not to participate to be made prior to the provision of, use of, or payment for the health care service;

(v) provide for an appeals process to allow for a review of decisions; and

(vi) establish procedures to coordinate settlement payments with other sources of payment under—

(aa) health or accident insurance;

(bb) any wage or salary continuation plan; or

(cc) any disability income insurance;

(bb) payment for the patient's pain and suffering, if appropriate for the injury, based on a capped payment schedule developed by the State in consultation with relevant experts; and

(bb) reasonable attorney's fees;

(vii) the Board may—

(aa) develop guidelines relating to—

(iia) the standard of care; and

(iib) the credentialed and disciplining of doctors; and

(bb) develop a plan for updating the schedule under clause (ii)(I) on a periodic basis.

(IV) SPECIAL HEALTH CARE COURT MODEL.—In the special health care court model, the State shall—

(A) establish a special court for adjudication of disputes over injuries allegedly caused by health care providers or health care organizations;

(B) ensure that such court is presided over by judges with expertise in and an understanding of health care;

(C) provide authority to such judges to make binding rulings on causation, compensation, standards of care, and related issues;

(D) provide for an appeals process to allow for a review of decisions; and

(E) at its option, establish an administrative entity similar to the entity described in paragraph (III) to provide advice and assistance to the special court.

(II) APPLICATION.—Each State desiring a grant under subsection (a) shall submit to the Secretary an application, at such time, and in such manner, as the Secretary may require.

(III) REPORT.—Each State receiving a grant under subsection (a) shall submit to the Secretary a report evaluating the effectiveness of activities funded with grants awarded under such subsection at such time and in such manner as the Secretary may require.

(IV) TECNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States awarded grants under subsection (a). Such technical assistance shall include the development, in consultation with States, of common definitions, formats, and data collection infrastructure. States receiving grants under this section to use in reporting to facilitate aggregation and analysis of data both within and between States. States not receiving grants under this section may also use such common definitions, formats, and data collection infrastructure.

(IV) EVALUATION.—

(I) IN GENERAL.—The Secretary shall enter into a contract with an appropriate research organization to conduct an overall evaluation of the effectiveness of grants awarded under subsection (a) and to annu-
At the Federal level, the Congress and Administration are often criticized for failure to understand what are or are not the implications to real people. One hundred and twenty thousand low-income beneficiaries face the prospect of their cost sharing increasing by over $3,000 per year in 2004. They cannot be assured that an extension will be passed or done so in a timely fashion. How are they supposed to plan and budget?

When we return in September, we will have just a few legislative days to pass an extension in the Senate, the House, and be signed by the President to stop the process of States having to send out disenrollment letters. We all know this can be very difficult to get through the Congress, as it requires unanimous consent, and may not occur in a timely fashion. If not, States will be forced to send out disenrollment letters to the 120,000 low-income seniors and the disabled that rely on the cost-sharing protections provided by the QI-1 program and begin to shut down their programs.

Again, this is emergency legislation that simply provisions a one-year extension of QI-1 program to prevent the cut-off of cost-sharing protections for 120,000 low-income Medicare beneficiaries. We should be engaging in improving health coverage for low-income elderly and disabled citizens rather than leaving these vulnerable Americans facing fear, uncertainty, disruption, and increasing costs.

I urge immediate passage of this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MEDICARE COST-SHARING FOR QUALIFYING INDIVIDUALS THROUGH FISCAL YEAR 2004.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended to read as follows:

(iv) subject to sections 1933 and 1905(p)(4), for making medical assistance available (but only for premiums payable with respect to months during the period beginning with January 1998 and ending with December 2003) for individuals with monthly income between $887 and $997 for individuals and between $1,194 and $1,344 for couples. This covers Medicare beneficiaries with income between 120 and 135 percent of the Federal Poverty Level.

This amounts to a benefit of over $700 annually that many older and disabled Americans depend upon to pay for a portion of their health care costs, such as prescription drugs and supplemental coverage. Well over 120,000 people nationwide currently rely on the QI-1 and will be hard pressed to afford Medicare coverage without this assistance. In short, to prevent the erosion of existing low-income protections, Congress must extend the QI-1 program this year.

This is a bipartisan issue as well. President Bush had included QI-1 reauthorization in his fiscal year 2003 budget. Moreover, an extension has been included in S. 1, the “Prescription Drug and Medicare Improvement Act of 2003,” but the conference is certainly not going to be completed, passed by both the House and Senate, and signed into law in time before the need for States to send out notices to beneficiaries alerting them to their forthcoming loss of cost sharing protections at the end of September.

As Ron Pollack, Executive Director at Families USA, notes in his letter of support for this legislation, “Without an extension, over 120,000 low-income Medicare beneficiaries will have to be sent notices that the program is expiring. The result will be confusion, fear, and uncertainty among this population. This disruption can all be avoided by the quick and early passage of your extension bill.”
(i) by striking "fiscal year 2002" and inserting "each of fiscal years 2002 through 2004"; and
(ii) by striking the period and inserting "; and"

(C) by adding at the end the following:

"(F) the first quarter of fiscal year 2005 is $100,000,000."); and

(2) in paragraph (2)(A), by striking "the sum of" and all that follows through "1902(a)(10)(E)(iv)(II) in the State; to" and inserting "twice the total number of individually described in section 1902(a)(10)(E)(iv) in the State; to";

By Mr. GRAHAM of Florida (for himself, Mrs. FEINSTEIN, and Mr. ROCKEFELLER):

S. 1520. A bill to amend the National Security Act of 1947 to reorganize and improve the leadership of the intelligence community of the United States, to provide for the enhancement of the counterterrorism activities of the United States Government, and for other purposes; to the Select Committee on Intelligence.

By Mr. ROCKEFELLER, Mr. President, I am pleased to be an original cosponsor of the "9-11 Memorial Intelligence Reform Act" which Senator BOB GRAHAM is introducing today to implement the recommendations of the Joint September 11 Inquiry of the Senate and House Intelligence Committees.

I expect that this important legislation will be referred to the Select Committee on Intelligence, on which I serve as vice chairman. I am committed to working with the Chairman and our colleagues to ensure that the matters addressed in the bill receive the full consideration and action that our national security requires. I expect that other committees, such as the Committee on the Judiciary, will have an interest in some matters covered by the bill, and I look forward to working with them.

The 9-11 Memorial Intelligence Reform Act covers matters ranging from the basic structure of the U.S. intelligence community to improvements in the sharing and analysis of intelligence information, reforms in domestic counterterrorism, and other issues identified in the course of the Joint Inquiry. For some matters, notably on reforming the leadership structure of the intelligence community, the bill proposes specific reforms. For various other matters, the bill calls for executive branch reports that can be the basis for subsequent congressional action.

There are two principal aspects of our work ahead.

The first is to systematically and thoroughly examine the steps that the President, the intelligence community, and other departments and agencies have taken to correct deficiencies in U.S. intelligence and counterterrorism. The Joint Inquiry's recommendations were first announced last December. In the months ahead, we will call on the various entities of the intelligence community, and other components of the executive branch, to report on their concrete measures, both since September 11 and since our recommendations were made public, to correct deficiencies. We should then assess those reports and Administration testimony in committee hearings.

Our second task is to consider reform proposals in the Select Committee on Intelligence. In that regard, I should make clear that the answers proposed in the bill are not the last word in any of these subjects. They are, instead, a beginning point for the Senate's consideration of measures to correct the problems identified by the Joint 9-11 Inquiry.

As we address these important tasks, it will be essential that the Congress and the American public have the benefit of the best ideas available. We will welcome proposals by the administration, by other Members of Congress, from the National Commission on Terrorist Attacks Upon the United States, and concerned citizens.

Important ideas should not be bottled up and classified. They should be put on the public table.

In that regard, I urge the President to release the intelligence reform recommendations that former National Security Adviser Brent Scowcroft has recently made public. In addition, I now urge the public testimony before our Joint Inquiry in September 2002, General Scowcroft testified, in response to a question that I asked him, that in May 2001—before September 11, the President had established a process to review the intelligence community. General Scowcroft testified that he chaired the external panel of that review, but that he could not get into much detail because his report was still classified. It is time, I believe, finally to declassify that report to the extent possible. The Congress and the American public should have the benefit of that distinguished public servant's insights about intelligence community reform.

By Mr. REID (for himself and Mr. ENSIIGN):

S. 1521. A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the Pahrump American Legion Post Land Conveyance Act. This Act will transfer approximately five acres of BLM land in Pahrump, NV, to the American Legion for the purpose of constructing a post home and other facilities that will benefit veterans' groups and the local community. The American Legion and other nonprofit organizations that represent our nation's veterans in the vicinity of Pahrump, NV, have tripled in size over the last 10 years. The local memberships of the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans will soon exceed 1,000 members, and will continue to expand with the rest of the fast-growing local community.

The existing facility used by the veterans in Pahrump was donated by the Veterans of Foreign Wars in the 1960s. It is too small and not at all adequate for the veterans' current needs. The nearest facility that can accommodate them is located in Las Vegas, more than 60 miles away.

The Pahrump American Legion would like to build a post building, veterans' garden, and memorial park. These new facilities would benefit not only the local veterans, but would be available—at no cost—for community activities. The American Legion has tried for over six years to acquire a suitable tract of land to provide a home for a new veterans center. The Legion started a pledge campaign and raised over $16,000 for the building fund before the parcel of land they sought to acquire was removed from consideration by the BLM. Unfortunately, other tracts of land that might represent alternative sites in Pahrump are not suitable.

Mr. President, this situation is intolerable. Without a home, the Pahrump American Legion Post can't offer the kind of services and programs that the veterans in the area deserve. Our veterans aren't the only ones who are suffering. All across the United States, the American Legion is deservedly famous for supporting community activities like the Boy Scouts and Girl Scouts, as well as the National Oratorical Contest, American Legion Baseball, Girls and Boys State, and other activities for young people. All of these worthy groups and projects would benefit from the construction of a new post home.

Our bill simply directs the Secretary of the Interior to convey this property from the Bureau of Land Management to American Legion "Edward H McDaniel" Post No. 22 in Pahrump. Because of the great public benefit such a facility will provide, we ask that the land be conveyed for free, but that the American Legion cover the costs of the transaction.

I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the membership of the American Legion and other nonprofit organizations that represent veterans' groups in Pahrump, Nevada, has grown immensely in the last 10 years;
(2) the existing facility used by the veterans community in Pahrump, which was constructed in the 1960's, is too small and is inappropriate for the needs of the veterans community;

(3) the nearest veterans facility that can accommodate the veterans community in Pahrump is located more than 60 miles away in the town of Las Vegas;

(4) the tracts of land that are available for consideration as potential sites for the location of a new veterans facility are not suitable for the facility;

(5) conveyance of a suitable parcel of land for the facility, which consists of an odd, triangular tract of land bounded on 2 sides by private land and 1 side by public land by a major highway, conforms with the objective of the Bureau of Land Management, Las Vegas District 1998 Resource Management Plan by simplifying the land management responsibilities of the Bureau of Land Management; and

(6) because the intent of the American Legion Post No. 22 and an opportunity for a hearing, in subsection (c) and in accordance with the valid existing rights and the condition stated in section (b).

(c) CONDITION ON USE OF LAND.

(1) IN GENERAL.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) consists of approximately 4.5 acres of land; and

(2) is more particularly described as a portion of the S 3/4 of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any succeeding Post No. 22 shall use the parcel of land described in paragraph (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for entertainment and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinuance use of the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary determines that a waiver would be in the best interests of the United States.

By Mr. SMITH (for himself, Mr. JEFFORDS, and Mr. CONRAD):

S. 1523. A bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, as engaged in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to the extent that the individual needs rehabilitative services beyond six months, that individual would need to be engaged in core work activities for at least 15 hours per week to get full credit, with the remaining 15 hours spent in rehabilitative services. Similarly, if partial credit is available for a person who works 24 hours per week, then a State could receive that same partial credit if the person was engaged in core work activities for at least 12 hours per week, with the remaining 12 hours spent in rehabilitative services.

This approach is appealing for many reasons. First, it allows States to design a system in which a person can move progressively over time from rehabilitation toward work. In addition, it gives States credit for the time and effort they will need to invest to help people move successfully from welfare to work by allowing States to use a range of strategies to help these families. Second, it creates a new structure for individuals with disabilities and addictions who may otherwise fall out of the system either through sanction or discouragement, despite their need for financial support. Finally, this approach is appealing because it is designed to work within the structure of the final TANF reauthorization bill.

The second provision in the bill would allow States the option of counting as work activity the time that an adult with a disability spends caring for a child with a disability or an adult relative who is in need of care. The studies reflect that these people often cannot find care for their relative so they can work. They are often forced into the impossible choice of caring for their child with a disability, or leaving that child to go to work in order to continue receiving their TANF grant. This is not a choice a parent should ever have to make.

In order to be able to count the care provided by the TANF recipient as work activity, the State would first be required to determine that the child or adult with a disability is, in fact, truly disabled, and that the person needs substantial ongoing care. Then, the State must decide that the TANF recipient is the most appropriate means for providing the needed care. The State would also have to conduct regular periodic evaluations to determine that the child or adult with a disability continues to be engaged as determined by the TANF recipient. Nothing in the provision prevents a State from determining that the TANF recipient can...
work outside the home or engage in other work-related training or other activities that will help the person eventually move to work on a full- or part-time basis.

I would like to submit for the record a letter to forty national organizations that are members of the Consortium for Citizens with Disabilities supporting this legislation, as well as a letter of support from my home State of Oregon. I look forward to working with my co-sponsors, Senators JEFF BINGHAM and JEFF FORDS, and with the Chairman of the Finance Committee on these important provisions in the upcoming months, and I urge my colleagues to join us in support of this legislation.

I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows.

S. 523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE. This Act may be cited as the “Pathways to Independence Act of 2003.”

SEC. 2. STATE OPTION TO COUNT REHABILITATION SERVICES FOR CERTAIN INDIVIDUALS AS WORK FOR PURPOSES OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM.

(a) In General.—Section 402(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)), as amended by section 2, is amended by adding at the end the following:

"(e) State option to count rehabilitation services for certain individuals as work for purposes of the Temporary Assistance for Needy Families Program.—(I) In general.—Subject to subsection (h), a State may include as part of the recipient’s self-sufficiency plan a requirement to engage in work activities described in paragraph (1) for an additional 3 months only if, during the 3 months immediately preceding the month of the request for a waiver under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may count the number of hours per week that a recipient engages in providing substantial ongoing care for a child or adult dependent for care with a physical or mental impairment if the State determines that—

"(I) the child or adult dependent for care has been verified through a medically acceptable clinical or laboratory diagnostic technique as having a significant physical or mental impairment or combination of impairments that is substantial ongoing care, could be accommodated either by

"(ii) the number of hours per week that a recipient engages in providing substantial ongoing care, could be accommodated either by

"(III) including the recipient’s self-sufficiency plan a requirement to engage in work activities described in paragraph (1) for an additional 3 months only if, during the 3 months immediately preceding the month of the request for a waiver under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may count the number of hours per week that a recipient engages in providing substantial ongoing care for a child or adult dependent for care with a physical or mental impairment if the State determines that—

"(I) the child or adult dependent for care has been verified through a medically acceptable clinical or laboratory diagnostic technique as having a significant physical or mental impairment or combination of impairments that is substantial ongoing care,

"(II) the recipient providing such care is the most appropriate means, as determined by the State, by which the care can be provided to the child or adult dependent for care,

"(III) for each month in which this subparagraph applies to the recipient, the recipient is in compliance with the requirements of the recipient’s self-sufficiency plan; and

"(IV) the recipient is unable to participate fully in work activities, after consideration of all the circumstances, when providing such care is not feasible.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

SEC. 3. STATE OPTION TO COUNT CARRYING FOR A CHILD OR ADULT DEPENDENT FOR CARE WITH A PHYSICAL OR MENTAL IMPAIRMENT AS MEETING ALL OR PART OF THE WORK REQUIREMENT.

(a) In General.—Section 402(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)), as amended by section 2, is amended by adding at the end the following:

"(f) State option to count carrying for a child or adult with a physical or mental impairment as meeting all or part of the work requirement.—(I) In general.—Subject to clause (ii), for purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may count the number of hours per week that a recipient engages in providing substantial ongoing care for a child or adult dependent for care with a physical or mental impairment if the State determines that—

"(I) the child or adult dependent for care has engaged in work activities described in paragraph (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month and the number of hours that the individual participates in rehabilitation services under this subparagraph for the month; or

"(bb) the State may count any hours of care for the child or adult dependent for care with a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(III) including the recipient’s self-sufficiency plan a requirement to engage in work activities described in paragraph (1) for an additional 3 months only if, during the 3 months immediately preceding the month of the request for a waiver under paragraphs (1)(B)(i) and (2)(B) of subsection (b), a State may count the number of hours per week that a recipient engages in providing substantial ongoing care for that adult dependent for care.

"(II) Special Rule.—If the adult dependent for care in a 2-parent family is 1 of the parents and the State has complied with the requirements of clause (ii), the State may count the number of hours per week that a recipient engages in providing substantial ongoing care for that adult dependent for care.

"(III) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as prohibiting a State from including in a recipient’s self-sufficiency plan a requirement to engage in work activities described in subsection (d)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2003.

CONGRESS FOR CITIZENS WITH DISABILITIES

July 31, 2003

Hon. GORDON SMITH, U.S. Senate, Washington, DC.
Hon. JAMES M. JEFFORDS, U.S. Senate, Washington, DC.
Hon. KENT CONRAD, U.S. Senate, Washington, DC.

DEAR SENATORS SMITH, CONRAD AND JEFFORDS: We are writing to thank you for introducing legislation that addresses two key problems facing TANF families with a parent or child with a disability. We believe that these provisions, if included in a larger TANF reauthorization bill, will significantly improve the ability of states to help families successfully move from welfare toward work while also ensuring that the needs of family members with disabilities are met.

The Consortium for Citizens with Disabilities (CCD) is a coalition of national consumer, advocacy, provider and professional organizations headquartered in Washington, DC. We work together to advocate for national public policy that ensures the self determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The CCD TANF Task Force seeks to ensure that families that include persons with disabilities and their clients are afforded equal opportunities and appropriate accommodations under the Temporary Assistance for Needy Families (TANF) block grant.

The research is clear that many TANF families include a parent or a child with a disability, and in some families, there is both a child and a parent with a disability. The numbers are high—GAO has found that as many as 44 percent of TANF families have a child or a parent with a disability—and need to be addressed in the policy choices Congress makes in TANF reauthorization. We believe that, by designing policies that take into account the needs of families with a member with a disability, Congress can help the states meet the needs of these families off of welfare and toward greater independence. Without reasonable
families with barriers to progress toward work in a manner and at a pace that is more tailored to their needs and disabilities.

Allow states to count as work activity the time that the adult in the TANF family spends caring for a child with a disability or an adult relative with a disability.

It is very difficult to find safe, accessible, and appropriate child care for a child with a disability. This is often the case regardless of the nature of some children’s disabilities and health conditions means that parents are called from work regularly to assist a school child with the child’s school work or medical appointments. At the same time, many parents would like to work as much as possible or receive the training they will need to secure a good job when they are no longer needed in the home to care for their children with disabilities.

Your bill will allow states to receive work credit for the time that a parent spends caring for a child with a disability, if the state has determined that this is the best way to secure the child’s care. The provision also would appear to be providing for an adult relative with a disability. This would help to address the bind that some TANF recipients face when they are told they must work away from home, but leave an elderly parent without care. Nothing in the provision would prevent a state from designing a plan with the parent that combines some amount of in-home care as work activity with other activities that will help the parent prepare to enter the workforce at a time that is appropriate in meeting the needs of the child or adult relative with a disability.

Thank you again for introducing this legislation and your leadership on these very important issues. We look forward to working with you and your staffs to ensure that these provisions become law.

Sincerely,

American Association of People with Disabilities, American Association on Mental Retardation, American Congress of Community Supports and Employment Services, American Counseling Association, American Music Therapy Association, American Network of Community Support Providers, Association of Maternal and Child Health Programs, Association of University Centers on Disability, Bazelon Center for Mental Health Law, Legal Services,

HELEN KELLER NATIONAL CENTER, LEARNING DISABILITIES ASSOCIATION, NATIONAL ALLIANCE TO END HOMELESSNESS, NATIONAL ASSOCIATION OF COUNTY BEHAVIORAL HEALTH DIRECTORS, NATIONAL ASSOCIATION OF PROTECTION AND ADVOCACY SYSTEMS, NATIONAL ASSOCIATION OF SOCIAL WORKERS, NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, NATIONAL ASSOCIATION OF VOCATIONAL REHABILITATION PROGRAM DIRECTORS, NATIONAL COALITION OF PARENT CENTER, NATIONAL COALITION ON DEAF-BLINDNESS, NATIONAL COUNCIL FOR COMMUNITY BEHAVIORAL HEALTHCARE, NATIONAL MENTAL HEALTH ASSOCIATION, NATIONAL REHABILITATION ASSOCIATION, NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS’ REPRESENTATIVES, PACER CENTER, THE ARC OF THE UNITED STATES, UNITED CEREBRAL PALSY

CONGRESSIONAL RECORD — SENATE


HON. GORDON SMITH, U.S. Senate, Washington, DC.

HON. JAMES M. JEFFORDS, U.S. Senate, Washington, DC.

HON. KENT CONRAD, U.S. Senate, Washington, DC.

Mr. JEFFORDS. Mr. President, it is a pleasure for me to introduce today, along with my colleagues Senator Smith of Oregon and Senator Conrad of North Dakota, the Pathways to Independence Act of 2003.

Let me begin by describing why this legislation is necessary. Currently, States have to meet a certain level of work participation in order to avoid penalties against their welfare funding. This level of work participation can be lowered through the “caseload reduction credit.” This means that States receive credit for moving people off of their welfare caseload. The caseload reduction credit has proven to be very successful since welfare reform was enacted in 1996. In fact, most States have received so much credit for moving people off of their caseloads, that their effective work participation rate is 0 percent.

While this approach has been widely regarded as very successful, it has one major flaw. States are rewarded only for removing people from welfare, there is no consideration given to where those people end up. States get credit for training someone to be a nurse, electrician, or carpenter as they do for sending that person to live on the streets.

This perverse incentive has been particularly difficult for the many welfare recipients who suffer from a disability or struggle with a substance abuse problem. In many States it is easier to write these people off than to give

July 31, 2003


HON. GORDON SMITH, U.S. Senate, Washington, DC.

HON. JAMES M. JEFFORDS, U.S. Senate, Washington, DC.

HON. KENT CONRAD, U.S. Senate, Washington, DC.

Mr. JEFFORDS. Mr. President, it is a pleasure for me to introduce today, along with my colleagues Senator Smith of Oregon and Senator Conrad of North Dakota, the Pathways to Independence Act of 2003.

Let me begin by describing why this legislation is necessary. Currently, States have to meet a certain level of work participation in order to avoid penalties against their welfare funding. This level of work participation can be lowered through the “caseload reduction credit.” This means that States receive credit for moving people off of their welfare caseload. The caseload reduction credit has proven to be very successful since welfare reform was enacted in 1996. In fact, most States have received so much credit for moving people off of their caseloads, that their effective work participation rate is 0 percent.

While this approach has been widely regarded as very successful, it has one major flaw. States are rewarded only for removing people from welfare, there is no consideration given to where those people end up. States get credit for training someone to be a nurse, electrician, or carpenter as they do for sending that person to live on the streets.

This perverse incentive has been particularly difficult for the many welfare recipients who suffer from a disability or struggle with a substance abuse problem. In many States it is easier to write these people off than to give
them the support necessary to become truly independent.

In Vermont, approximately 15 percent of the welfare caseload is diagnosed with a disability and receives services through the Department of Vocational Rehabilitation. However, that treatment is not included in the "core activities" allowed under welfare reform. So the State receives no credit for moving these individuals to independence. This is wrong.

If we truly want welfare to be an initiative that helps people to become independent and self-sufficient, then we must be willing to take the steps necessary to get them there. This legislation would give States the tools necessary to assist them in that effort.

Here is how it would work. The bill will allow States to count people with disabilities or substance abuse problems as working, provided that they are meeting certain criteria. First, a State must consider someone as working for three months if they are involved in a treatment program. At the end of this three-month period, the State can re-evaluate the status of the individual and decide to continue treatment for another three months. Now, the individual must work or perform another separation activity in addition to their continuing treatment program. At the end of six months, the State can continue treatment with the individual as long as the individual is meeting half of the core work requirements following their treatment program for the remaining hours.

This is a common sense proposal. It is consistent with what we know about providing effective support programs to people with disabilities and effective treatment programs for people struggling with substance abuse. Allowing States to count people in the "working" category provides the States with the necessary incentives to engage welfare recipients in meaningful interventions. It will allow the States to truly place people with disabilities and substance abuse problems on a pathway to independence.

In addition, this bill includes a provision first put forward by Senator CONRAD that will allow States to exempt people who need to care for a child or family member with a disability. This is a proposal that was part of last year's Senate Finance Committee Work, Opportunity and Responsibility for Kids (WORK) bill, and I applaud Senator CONRAD for his consistent support of that proposal.

It is unclear when a full reauthorization of welfare will occur. It is clear, however, that The Pathways to Independence Act of 2003 should be a part of any welfare reform package. I would like to thank the Consortium for Citizens with Disabilities for their help in developing this legislation and their strong, focused support. I especially want to thank my colleague from Oregon, Senator SMITH, and my colleague from North Dakota, Senator CONRAD and their staff for all of the hard work that has gone into producing this proposal.

By Mr. SANTORUM (for himself, Mr. ALLEN, Mr. Bunning, Mrs. DOLE, Mr. Kyl, Mr. rv. SANTORUM, Mr. President, today I am introducing the Motorsports Facilities Fairness Act. This bill would clarify the tax treatment of a large and complex industry that contributes to the economies of communities across the country.

The Motorsports Facilities Fairness Act would provide certainty to track and speedway operators regarding the depreciation of their properties. The Internal Revenue Service has just recently raised questions regarding the depreciation treatment used by facility owners. For decades, motorsports facilities were classified as "theme and amusement facilities" for depreciation purposes. This long-standing treatment was widely applied and accepted, until now. Over the years, relying on this understanding of the tax law, facility owners and operators invested hundreds of millions of dollars in building and upgrading these properties.

Pennsylvania is home to many of these facilities, including Pocono Raceway, Nazareth Speedway, Lake Erie Speedway, Jennerstown Speedway, Big Diamond Raceway and Motorodrome Speedway. These tracks and others boost their local economies. Larger races can draw tens of thousands of fans, some from hundreds of miles away. These facilities are an important part of the fabric of our national economy. As motorsports continues to grow as a national pastime, we must ensure that Federal policy does not unnecessarily impede its contribution to the economy.

To that end I have introduced the Motorsports Facilities Fairness Act. This legislation would simply codify the well-understood, long-standing and widely accepted treatment of motorsports facilities for depreciation purposes. While modest in scope, it will provide needed clarity to the hundreds of thousands of dollars in building and upgrading these properties.

State governments are not limited by the "essential government function" test when they issue tax-exempt debt. The bill I am introducing today will eliminate the disparate treatment of these facilities.

I ask unanimous consent that a copy of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1526
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title 1. Uniform Tax

II. Tribal Government Tax-Exempt Bond Fairness Act of 2003

Sec. 1. DECLARATIONS AND AFFIRMATIONS.

Congress declares and affirms that—

(1) The United States Constitution, United States Federal court decisions, and United States statutes recognize that Indian tribes are governments, retaining sovereign authority over their lands.

(2) Through treaties, statutes, and Executive orders, the United States has set aside Indian reservations to be used as "permanent homelands" for Indian tribes.

(3) As governments, Indian tribes have the responsibility and authority to provide governmental services, develop tribal economies, and build community infrastructure to
ensure that Indian reservation lands serve as livable "permanent homelands".

(4) Congress is vested with the authority to regulate commerce with Indian tribes, and hereby authorizes such authority and affirms the United States government-to-government relationship with Indian tribes.

SEC. 3. MODIFICATIONS OF AUTHORITY OF INDIGENOUS GOVERNMENTS TO ISSUE TAX-EXEMPT BONDS. (a) IN GENERAL. —Subsection (c) of section 7671 of the Internal Revenue Code of 1986 (relating to Indian tribal governments treated as States for certain purposes) is amended to read as follows:

"(c) EXCLUSION OF G Aming. —An obligation described in subparagraph (A) or (B) of paragraph (1) may be financed in whole or in part by an Indian tribe, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m), and

"(1) any Indian reservation, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m), and

"(2) Indian tribal government, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m)."

(b) In general. —Subsection (a) of section 103 shall apply to any obligation issued by an Indian tribal government (or subdivision thereof) only if—

"(A) such obligation is part of an issue 95 percent or more of the net proceeds of which are to be used to finance any facility located on an Indian reservation, or

"(B) such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function.

"(2) EXCLUSION OF GAMING. —An obligation described in subparagraph (A) or (B) of paragraph (1) may be financed in whole or in part by an Indian tribe, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m), and

"(i) any Indian reservation, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 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.

"(B) INDIAN RESERVATION. —The term 'Indian reservation' means—

"(i) a reservation, as defined in section 3(m) of the Indian Reorganization Act of 1934 (25 U.S.C. 460m), and

"(ii) lands held under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by a Native corporation as defined in section 3(m) of such Act (43 U.S.C. 1602(m))."

SEC. 4. EXEMPTION FROM REGISTRATION REQUIREMENTS. The first sentence of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by inserting "or any Indian tribal government, as defined in section 3(m) of the Act (43 U.S.C. 1601(m))" after "or Territorial Government."  

SEC. 5. EFFECTIVE DATE. The amendments made by this Act shall apply to obligations issued after the date of the enactment of this Act.  

By Mr. SANTORUM (for himself, Mr. DODD, Mr. CHAFFEE, Ms. COLLINS, Mr. KERRY, Mr. SCHUMER, Mr. BINGAMAN, Mr. LIEBERMANN):  
S. 1527. A bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I am proud to join my colleague, Senator Chris Dodd of Connecticut, in reintroducing bipartisan legislation to address the ruinous effects of America’s most common tick-borne illness, Lyme disease.

I thank the senior Senator from Connecticut for his long involvement and leadership on this very important public health issue. Tens of thousands of Americans contracting Lyme disease each year, it is essential that we work aggressively to wage a comprehensive fight against Lyme and other tick-borne disorders, which cost our country dearly in the way of medical expenditures and human suffering. The current lack of physician knowledge about Lyme and the inadequacies of existing detection methods stand out as deficiencies in our efforts to combat Lyme, and only serve to compound this growing public health hazard.

We have it within our capacity to finally deliver on promises made to Lyme patients and their families to better focus the federal government’s efforts to detect and research a cure for Lyme. As the last session of Congress, the Senate passed this legislation, but unfortunately the House of Representatives did not have the opportunity to consider it.

This legislation represents years of work with Lyme advocacy communities to reach consensus on a way we can best move forward on this issue. The goal of our bill is for the federal government to develop more accurate and reliable diagnostic tools, and to provide access to more effective treatment and ultimately a cure.

Between 1991 and 1999, the annual number of reported cases of Lyme disease increased by an astonishing 72 percent. Even as this dramatic increase took place, poor coordination and the lack of proper funding have led too many questions unanswered.

This legislation will seek to set a new course for our public health strategies toward Lyme by ensuring that the proper leadership is taking place between the Federal government and the people it serves.

With this consensus legislation we are calling for the formation of a Department of Health and Human Services Advisory Committee that will bring Federal agencies, such as the CDC and the NIH, to the table with patient organizations, clinicians, and members of the scientific community. This Committee will report its recommendations to the Secretary of Health. It will ensure that all scientific viewpoints are given consideration at NIH and the CDC, and will give a voice to the patient community which has often been left out of the dialogue.

Our legislation will also provide an additional $10 million each year over the next five years for public health agencies to work with researchers around the country to develop better diagnostic tests and to increase their efforts to educate the public about Lyme disease.

I sincerely hope that our colleagues will join Senator Dodd and myself in this most worthy cause and cosponsor this important bill. Lyme disease patients and their families have waited too long for a responsive plan of action to address their suffering and needs.

The tremendous efforts of the Lyme patient and advocacy community have been very helpful in gaining awareness and mobilizing support for this issue, and for this both Senator Dodd and I thank them. I look forward to working with them, Senator Dodd, and our colleagues to enact this legislation to help correct the mistakes of the past, and to give greater hope for the future by ensuring that the federal government is doing everything in its power to provide better treatments and ultimately a cure.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS. Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood, easily caught and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early and treated properly, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other disorders, such as ehrlichiosis, anaplasmosis, and Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(5) Although tick-borne disease cases have been reported in 49 States and the District of Columbia, about 90 percent of the 15,000 cases have been reported in the following 10 States: Connecticut, Pennsylvania, New York, New Jersey, Rhode Island, Maryland, Massachusetts, Minnesota, Delaware, and Wisconsin. Studies have shown that the actual number of tick-borne diseases are approximately 10 times the amount reported due to poor surveillance of the disease.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 2. ESTABLISHMENT OF A TICK-BORNE DISEASES ADVISORY COMMITTEE. (a) ESTABLISHMENT OF COMMITTEE. —Not later than 180 days after the date of enactment of this Act, there shall be established as an advisory committee to be known as the Tick-Borne Disorders Advisory Committee (referred to in this Act as the "Committee") organized in the Office of the Secretary.

(b) DUTIES. —The Committee shall advise the Secretary and Assistant Secretary of Health regarding how to—
(1) assure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne disorders;
(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing tick-borne disorders; and
(3) develop informed responses to constituency groups regarding the Department of Health and Human Services' efforts and programs.

(c) MEMBERSHIP.—
(1) APPOINTED MEMBERS.—
(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint voting members to the Committee from among the following member groups:
(i) Scientific community members.
(ii) Representatives of tick-borne disorder voluntary organizations.
(iii) Health care providers.
(iv) Patient representatives who are individuals who have been diagnosed with tick-borne illnesses or who have had an immediate family member diagnosed with such illness.
(v) Representatives of State and local health departments and national organizations who represent State and local health professionals.
(B) CONCILIATORS.—The Assistant Secretary of Health shall serve as the conciliator of the Committee with a public conciliator chosen by the members described in clause (i) to assist the Secretary.
(C) EX OFFICIO MEMBERS.—The Committee shall have nonvoting ex officio members determined appropriate by the Secretary.
(d) TERM OF APPOINTMENT.—The term of each member shall be 2 years and shall be renewable at the discretion of the Secretary.
(e) VACANCY.—If there is a vacancy on the Committee, such position shall be filled in the same manner as the original appointment. Any member appointed to fill an unexpired term shall be appointed for the remainder of the term. Members may serve after the expiration of their terms until their successors have taken office.

MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, giving notice to the public of such, and meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items can be added at the request of the Committee members, as well as the co-chairpersons. Meetings shall be open and records of the proceedings kept as required by applicable laws and Departmental regulations.

(h) PROJECTS.—
(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee a report on the activities carried out under this Act.
(2) CONTENT.—Such reports shall describe—
(A) projects in the development of accurate diagnostic tests that are more useful in the clinical setting; and
(B) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne disorders.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act, $250,000 for each of fiscal years 2004 and 2005. Amounts appropriated under this subsection shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the provisions of the Federal Acquisition Regulation (48 U.S.C. App.), except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 3. AUTHORIZATION FOR RESEARCH FUNDING.
There are authorized to be appropriated $10,000,000 for each of fiscal years 2004 through 2008 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to combat Lyme disease and other tick-borne disorders.

SEC. 4. GOALS.
It is the sense of the Senate that, in carrying out this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting as appropriate in consultation with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Committee, and other agencies, should carry out the following:
(1) FIVE-YEAR PLAN.—It is the sense of the Senate that the Secretary should consider the establishment of a plan that, for the fiscal years following enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under paragraphs (2) through (4). The plan should, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease and other tick-borne disorders that are conducted or supported by the Federal Government.
(2) FIRST GOAL: DIAGNOSTIC TEST.—The goal described in this paragraph is to develop and provide for the coordination of other diagnostic tests for use in clinical testing.
(3) SECOND GOAL: SURVEILLANCE AND REPORTING OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to accurately determine the prevalence of Lyme disease and other tick-borne disorders in the United States.
(4) THIRD GOAL: PREVENTION OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to develop and provide for the coordination of other prevention of Lyme disease and other tick-borne disorders.

SEC. 5. Authorization of Appropriations
There are authorized to be appropriated $10,000,000 for each of fiscal years 2004 through 2008 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to combat Lyme disease and other tick-borne disorders.

SEC. 6. Authorization for Research Funding
There are authorized to be appropriated $10,000,000 for each of fiscal years 2004 through 2008 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to combat Lyme disease and other tick-borne disorders.

Mr. DODD. Mr. President, it is with great pleasure that I rise today to introduce legislation for the research, prevention, and control of Lyme disease. This legislation builds on earlier efforts to tackle the problem of Lyme disease and other tick-borne disorders. Through an amendment that I offered to the Fiscal Year 1999 Department of Defense (DoD) Authorization Bill, an additional $3 million was directed toward DoD's research in this area. This was an important first step in the fight to increase our understanding of this disease, but much more remains to be done. This legislation will provide what is necessary to continue the effort to research, prevent, and treat Lyme disease and other tick-borne disorders. A critical component of this legislation is the creation of a federal advisory committee on Lyme disease and other tick-borne disorders. This advisory committee, the first of its kind, will include members of the scientific community, health care providers, and most directly impacted by the disease, Lyme patients and their families. Among its activities, the committee will identify opportunities for coordination and communication between Federal agencies and private organizations in their efforts to combat Lyme disease.

This legislation also includes other key elements designed to conquer Lyme disease and other tick-borne disorders. It provides a framework for the government to establish clear goals in the areas of research, treatment, and prevention of Lyme disease. Crucial to activities in each of these areas, is the fact that this legislation authorizes $10 million in annual funding for federal activities related to the elimination of Lyme disease.
support of this important initiative. I look forward to continuing to work with Senator SANTORUM, my other colleagues, and the Lyme disease community to strengthen our efforts to eradicate Lyme disease. This legislation provides an important step toward reaching this laudable goal.

By Mr. CAMPBELL. (for himself and Mr. INOUYE):

S. 1528. A bill to establish a procedure to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senator INOUYE in introducing a bill to assist Indian tribes in their efforts to strengthen their economies.

Despite recent success some Indian tribes have had with gaming, tourism and natural resource development, the fact is that most tribes still suffer high unemployment, intense poverty and a lack of physical infrastructure.

Most tribal economies continue to perform poorly despite the expenditure of hundreds of millions—even billions—of Federal dollars over the years by the Departments of Agriculture, Commerce, Defense, Interior, Labor, and others.

The core problem is not the amount of dollars, but rather how they are being spent.

Numerous hearings by the Committee on Indian Affairs and several General Accounting Office (GAO) reports show that most Federal efforts are poorly timed and coordinated and lack the kind of tribal decision-making to make the efforts succeed.

The bill we are introducing today will go a long way in fixing these problems.

The principles that guide the bill are not new. In 1970 President Nixon issued his “Special Message to Congress on Indian Affairs” that called for significant changes in Federal Indian policy.

Nixon saw that Indians were not in command of the Federal programs and services meant for their benefit and he launched a quiet revolution in Federal Indian policy.

The Indian Self-Determination and Education Assistance Act of 1975 authorizes tribes to contract with Federal agencies, thereby providing the means for Indian tribes to take control of their own development.

Today, one-half of the programs and services of the Bureau of Indian Affairs and the Indian Health Service are now contracted by Indian tribes and consortia. Tribal decisionmaking is paramount, service quality has improved, and tribal capacity has been enhanced significantly.

This bill will expand the principles of Indian self-determination to have the tribes—not the Federal bureaucracy—determine which programs and services should be brought to bear in an integrated and coordinated way to bring hope, jobs, and strengthened economies to their communities.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

The Act may be cited as the “Indian Tribal Development Consolidated Funding Act of 2003”.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) a unique legal and political relationship exists between the United States and Indian tribes that is reflected in article I, section 8, clause 3 of the Constitution, various treaties, Federal statutes, Supreme Court decisions, executive agreements, and course of dealing;

(2) despite the infusion of a substantial amount of Federal inclusion into Native American communities over several decades, the majority of Native Americans remain mired in poverty, unemployment, and despair;

(3) the efforts of the United States to foster community, economic, and business development in Native American communities have been hampered by fragmentation of authority, responsibility, and performance, and lack of timeliness and coordination in resources and decisionmaking; and

(4) the effectiveness of Federal and tribal efforts in integrating employment opportunities and bringing value-added activities and economic growth to Native American communities depends on cooperative arrangements among the various Federal agencies and Indian tribes.

(b) PURPOSES.—The purposes of this Act are—

(1) to enable Indian tribes and tribal organizations to use available Federal assistance more effectively and efficiently;

(2) to adapt and target such assistance more readily to critical needs through wider use of projects that are supported by more than 1 agency, assistance program, or appropriation of the Federal Government;

(3) to encourage Federal-tribal arrangements under which Indian tribes and tribal organizations may more effectively and efficiently combine Federal and tribal resources to support economic projects;

(4) to promote the coordination of Native American economic programs to maximize the benefits of those programs to encourage a more consolidated, national policy for economic development; and

(5) to establish a procedure to aid Indian tribes in obtaining Federal resources and in more readily to particular needs through those resources for the furtherance of tribal self-governance and self-determination.

SEC. 3. DEFINITIONS.

In this Act:

(a) APPLICANT.—The term “applicant” means an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, that submits an application under this Act for assistance in carrying out a project.

(b) ASSISTANCE.—The term “assistance” means—

(A) a transfer of anything of value for a public purpose, support, or stimulation that is—

(1) authorized by a law of the United States;

(2) provided by the Federal Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and

(C) authorized to include an Indian tribe or tribal organization, or a consortium of Indian tribes or tribal organizations, as eligible for receipt of funds under a statutory or administrative formula for the purposes of tribally determined community, economic, or business development.

(3) ASSISTANCE PROGRAM.—The term “assistance program” means any program of the Federal Government that provides assistance for which Indian tribes or tribal organizations are eligible.

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) PROJECT.—The term “project” means a community, economic, or business development undertaking that includes components that contribute materially to carrying out a purpose or closely-related purposes that are proposed or approved for assistance under more than 1 Federal Government program.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(7) TRIBAL ORGANIZATION.—The term “tribal organization” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. LEAD AGENCY.

The Department of the Interior shall be the lead agency for purposes of carrying out this Act.

SEC. 5. SELECTION OF PARTICIPATING TRIBES.

(a) PARTICIPANTS.—

(1) IN GENERAL.—The Secretary may select from the applicant pool described in subsection (b) Indian tribes or tribal organizations not to exceed 24 in number, to submit an application to carry out a project under this Act.

(b) APPLICANT POOL.—The applicant pool described in this subsection shall consist of each Indian tribe or tribal organization that—

(1) successfully completes the planning phase described in subsection (c);

(2) requests participation in a project under this Act through a resolution or other official action of the tribal governing body; and

(3) demonstrates, for the 3 fiscal years immediately preceding the fiscal year for which participation is requested, financial stability and financial management capability as demonstrated by a showing by the Indian tribe or tribal organization that there were no material audit exceptions in the required annual audit of the self-determination contracts of the Indian tribe or tribal organization.

(c) PLANNING PHASE.—Each applicant—

(1) shall complete a planning phase that includes—

(A) legal and budgetary research; and

(B) internal tribal government and organizational preparation; and
(2) on completion of the planning phase, shall be eligible for joint assistance with respect to a project.

SEC. 6. APPLICATION REQUIREMENTS, REVIEW, AND APPROVAL.

(a) REQUIREMENTS.—An applicant shall submit to the head of the Federal agency responsible for administering the primary Federal program to be affected by the project an application on the form prescribed by the head of the Federal agency receiving the application.

(1) identifies the programs to be integrated;

(2) proposes programs that are consistent with the purposes described in section 2(b);

(3) describes—

(A) a comprehensive strategy that identifies the project in which Federal funds are to be integrated and delivered under the project; and

(B) the results expected from the project;

(4) identifies the projected expenditures under the project in a single budget;

(5) identifies the agency or agencies of the tribal government that are to be involved in the project;

(6) identifies any Federal statutory provisions, regulations, policies, or procedures that the applicant requests be waived in order for the project to be implemented;

(7) is approved by the governing body of the applicant, including, in the case of an applicant that is a consortium or tribes or tribal organization, the governing body of each affected member tribe or tribal organization.

(b) REVIEW.—On receipt of an application that meets the requirements of subsection (a), the head of each Federal agency receiving the application shall—

(1) consult with the applicant and with the head of each Federal agency that is proposed to provide funds to implement the project; and

(2) consult and coordinate with the Department of the Interior as the lead agency under this Act for the purposes of processing the application.

(c) APPROVAL.—

(1) WAIVERS.—

(A) IN GENERAL.—Subject to subparagraph (B), notwithstanding any other provision of law, the head of the Federal agency responsible for administering any statutory provision, policy, or procedure that is identified in an application in accordance with subsection (a)(6) or as a result of the consultation required under subsection (b), and that is requested by the applicant to be waived, shall waive the statutory provision, regulation, policy, or procedure.

(B) LIMITATION.—A statutory provision, regulation, policy, or procedure identified for waiver under subparagraph (A) may not be waived by an agency head if the agency head determines that a waiver would be inconsistent with—

(i) the purposes described in section 2(b); or

(ii) any provision of the statute governing the program involved that is specifically applicable to the project.

(2) PROJECT.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt of an application that meets the requirements of subsection (a), the head of the Federal agency receiving the application shall inform the applicant, in writing, of the approval or disapproval of the application, including the approval or disapproval of any waiver sought under paragraph (1).

(B) DISAPPROVAL.—If an application or waivers are disapproved—

(i) the written notice shall identify the reasons for the disapproval; and

(ii) the applicant shall be provided an opportunity to amend the application, including the approval or disapproval of any waiver sought, in consultation with the agency head to reconsider the disapproval.

SEC. 7. AUTHORITY OF HEADS OF FEDERAL AGENCIES.

(a) IN GENERAL.—The President, acting through the head of any appropriate Federal agency, shall promulgate regulations necessary—

(1) to carry out this Act; and

(2) to ensure that this Act and any regulations that implement this Act are administered by all Federal agencies.

(b) SCOPE OF COVERAGE.—The Federal agencies that are identified in paragraph (1) include—

(1) the Department of Agriculture;

(2) the Department of Commerce;

(3) the Department of Defense;

(4) the Department of Education;

(5) the Department of Energy;

(6) the Department of Health and Human Services;

(7) the Department of Homeland Security;

(8) the Department of Housing and Urban Development;

(9) the Department of Justice;

(10) the Department of Labor;

(11) the Department of Transportation;

(12) the Department of the Treasury;

(13) the Department of Veterans Affairs;

(14) the Environmental Protection Agency;

(15) the Small Business Administration; and

(16) such other agencies as the President determines to be appropriate.

(c) ACTIVITIES.—Notwithstanding any other provision of law, the head of each Federal agency, acting alone or jointly through an agreement with another Federal agency, may—

(1) identify related Federal programs that are suitable for providing joint financing of specific kinds of projects with respect to Indian tribes or tribal organizations;

(2) assist in developing such joint projects to be financed through different Federal programs;

(3) with respect to Federal programs or projects that are identified or developed under paragraphs (1) or (2), develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance;

(4) review administrative program requirements that may impede the joint financing of such projects and modify the requirements appropriately;

(5) establish common technical and administrative requirements for Federal programs to assist in providing joint financing to support a specific project or class of projects; and

(6) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) an agency responsible for processing applications; and

(B) a lead agency responsible for project supervision.

(d) REQUIREMENTS.—In carrying out this Act, the head of each Federal agency shall—

(1) take all appropriate actions to carry out this Act when administering an assistance program;

(2) consult and cooperate with the heads of other Federal agencies; and

(3) assist in the administration of assistance programs of other agencies that may be used to jointly finance projects undertaken by Indian tribes or tribal organizations.

SEC. 8. PROCEDURES FOR PROCESSING REQUESTS FOR JOINT FINANCING.

In processing an application for assistance for a project to be financed in accordance with this Act, the head of a Federal agency shall take all appropriate actions to ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known to the head of a Federal agency by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the Federal Government;

(4) an applicant is promptly informed of a decision or problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from 1 Federal agency that has multiple requests pending in a case in which the requesting agency makes the information or assurances directly.

SEC. 9. UNIFORM ADMINISTRATIVE PROCEDURES.

(a) IN GENERAL.—To make participation in a project simpler than would otherwise be practical because of the application of inconsistent or conflicting technical or administrative regulations or procedures that are not specifically required by the statute that governs the Federal program under which the project is funded, the head of the Federal agency may promulgate uniform regulations concerning inconsistent or conflicting requirements with respect to—

(1) the administration of the project, including with respect to accounting, reporting, and auditing, and maintaining a separate bank account, to the extent consistent with this Act;

(2) the timing of payments by the Federal Government for the project in a case in which a payment schedule or a combined payment schedule is to be established for the project;

(3) the provision of assistance by grant rather than procurement contract; and

(4) the accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Federal Government under the Act.

(b) REVIEW.—To make the processing of applications for assistance under a project simpler under this Act, the head of a Federal agency may provide for review of proposals for a project by a single panel, board, or committee in any case in which reviews by separate panels, boards, or committees are not specifically required by the statute that governs the Federal program under which the project is funded.

SEC. 10. DELEGATION OF SUPERVISION OF ASSISTANCE.

(a) IN GENERAL.—In accordance with regulations promulgated under section 7(a), the head of a Federal agency may delegate or otherwise enter into an arrangement to have another Federal agency carry out or supervise a project or class of projects jointly financed in accordance with this Act.

(b) CONDITIONS.—A delegation or other arrangement under subsection (a) shall be made under conditions ensuring that the duties and powers delegated are exercised consistent with Federal law; and may not be made in a manner that relieves the head of the Federal agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

SEC. 11. JOINT ASSISTANCE FUNDS AND PROJECT FACILITATION.

(a) JOINT ASSISTANCE FUND.—In providing support for a project in accordance with this Act, the head of a Federal agency may provide for the establishment in the Treasury of a joint assistance fund to be used to finance a project that is carried out in coordination with another Federal agency.

(b) FACILITATION.—In providing support for a project in accordance with this Act, the head of a Federal agency may provide for the establishment in the Treasury of a joint assistance fund to provide for the establishment in the Treasury of a joint assistance fund for the purposes of the Act.
(b) AGREEMENT.—

(1) IN GENERAL.—A joint assistance fund may be established under subsection (a) only in accordance with an agreement by the Federal agency responsible for administering the fund and the State involved concerning the responsibilities of each such agency.

(2) REQUIREMENTS OF AGREEMENT.—An agreement under paragraph (1) shall,—

(A) include arrangements for the establishment of a joint assistance fund, and may include arrangements for the joint operation of the fund by the Federal agency responsible for administering the joint assistance fund, after consultation with the applicant.

(B) ensure the availability of necessary information to Federal agencies and Congress; and

(C) provide that the agency providing for the establishment of the fund under subsection (a) is responsible and accountable by program and appropriation for the amounts provided for the purposes of each fund.

(c) JOINT ACTION.—In an area project conducted under this Act for which a joint assistance fund has been established under subsection (a) and the actual costs of the project are less than the estimated costs, use of the excess funds shall be determined by the head of the Federal agency administering the joint assistance fund, after consultation with the applicant.

SEC. 12. FINANCIAL MANAGEMENT, ACCOUNTABILITY, AND AUDITS.

(a) SINGLE AUDIT ACT.—Recipients of funding provided in accordance with this Act shall be subject to chapter 75 of title 31, United States Code.

(b) RECORDS.—

(1) IN GENERAL.—With respect to each project financed through an account in a joint assistance fund established under section 11, the recipient of amounts from the fund shall maintain records as required by the head of the Federal agency responsible for administering the fund.

(2) REQUIREMENTS.—Records described in paragraph (1) shall include—

(A) the amount and disposition by the recipient of assistance received under each Federal assistance program and appropriation;

(B) the total cost of the project for which such assistance was given or used;

(C) the part of the cost of the project provided from other sources; and

(D) such other information as the head of the Federal agency responsible for administering the fund.

(c) AVAILABILITY.—Records described in paragraph (2) shall be available—

(A) for audit by the Comptroller General of the United States; and

(B) to the head of the Federal agency responsible for administering the fund; and

(C) to the Comptroller General of the United States.

SEC. 13. TECHNICAL ASSISTANCE AND PERSONNEL TRAINING.

Amounts available for technical assistance and personnel training under any Federal assistance program shall be available for technical assistance and training under a project approved for joint financing under this Act if the use of such funds involves the Federal assistance program and the project approved for joint financing.

SEC. 14. JOINT STATE FINANCING FOR FEDERAL-TRIBAL ASSISTED PROJECTS.

(a) IN GENERAL.—Under regulations promulgated under section 7(a), the head of a Federal agency may enter into an agreement with a State to extend the benefits of this Act to a project that involves assistance from—

(1) at least 1 Federal agency;

(2) a State; and

(3) at least 1 tribal agency or instrumentality.

(b) JOINT ACTION.—An agreement under subsection (a) may include arrangements to process requests or administer assistance on a joint basis.

SEC. 15. REPORT TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress a report that includes—

(1) a description of actions taken under this Act;

(2) a detailed evaluation of the implementation of this Act, including information on the benefits and costs of jointly financed projects that accrue to participating Indian tribes and tribal organizations; and

(3) recommendations (including legislative recommendations) of the President with respect to improvement of this Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 1529. A bill to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE in introducing the Indian Gaming Regulatory Act Amendments of 2003 to amend and update the Act. In amendments to the Indian Gaming Regulatory Act of 1988 (IGRA) it is important to keep in mind the twin aims of the act: to ensure that gaming continues to be a tool for Indian economic development; and to ensure that the games played are kept free from corrupting forces to maintain the integrity of the industry.

This bill will update the IGRA by clarifying how vacancies in the National Indian Gaming Commission (NIGC) are filled; revising the NIGC statutory rates of pay to correspond with other current Federal rates of pay; and expanding the NIGC’s reporting requirements to Congress. The bill also clarifies the act by making the Johnson Act inapplicable to class II technological aids to bring it in line with the original intent of Congress in 1988.

The bill also requires background checks on contract managers, contractors, management employees, and gaming commissioners.

When the IGRA was enacted in 1988, Indian gaming was mainly high stakes bingo operations, known as “class II gaming” under the act. Virtually no one thought Indian gaming would become the $14.5 billion dollar industry that it is today, providing tribes with resources for development and employment opportunities where none previously existed.

In response to this success, questions have been raised—some legitimate, some not—about the efficacy of regulation within the industry. This bill requires that the NIGC and the gaming tribes develop and implement a system of minimum internal control, background investigation and licensing standards for all tribes that operate class II and class III gaming.

The bill would also ensure that the NIGC has the tools it needs to fulfill its regulatory duties by increasing the fee cap 50 percent over the next six years. With that budgetary increase, and prior to levying any fees, the NIGC would be required to determine and take into account the nature and level of any tribal or joint tribal-state regulatory activities and to reduce the fees assessed accordingly.

The bill will enable the NIGC to provide technical assistance through training to Indian tribes. The NIGC would be authorized to expend the civil fines it recoups for violations of the IGRA for these purposes.

The last substantive reform in the bill goes to the very heart of the act—economic development through gaming for Indian tribes. Because of gaming, some tribes have been very successful, employing thousands of people, both Indian and non-Indian, and reducing poverty and the welfare rolls in their areas.

This success has attracted the attention of other governments, cash-strapped and hungry for new revenues. Many States are looking to gaming tribes to help eliminate their deficits, and some States are reportedly refusing to negotiate under the IGRA in mind, the bill includes provisions to ensure that tribal gaming revenues are first used to meet the needs of tribal governments and their member. Only after satisfying those needs, would States and tribes be able to negotiate a revenue-sharing agreement.

To encourage States and tribes to negotiate, the bill requires the Secretary to perform her existing responsibilities under the act within 90 days and, at the back end, when existing compacts are up for renewal, the bill provides a 180-day grace period beyond the expiration date of compacts to encourage tribal-State agreements.

I ask unanimous consent that a copy of the bill be printed in the Record. Without objection, the bill was ordered to be printed in the Record, as follows:

S. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Gaming Regulatory Act Amendments of 2003”.

SEC. 2. PAYMENT AND ADMINISTRATION OF GAMING FEES.

(a) DEFINITIONS.—Section 4(7) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(7)) is amended by adding at the end the following:

(2) a State; and

(b) NATIONAL INDIAN GAMING COMMISSION.—Notwithstanding any other provision of law, sections 1 through 7 of the Act of January 2, 1951 (commonly known as the “Gaming Regulatory Act”) (15 U.S.C. 1175 through 1177) shall not apply to any gaming described in subparagraph (A)(i) for which an electronic aid, computer, or other technological aid is used in connection with the gaming.

(c) VACANCIES.—
CONGRESSIONAL RECORD

S10654

JULY 3, 2003

"(J) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

"(2) Successors.—Unless a member of the Commission is removed for cause under subsection (b)(6), the member may—

"(A) be reappointed; and

"(B) serve after the expiration of the term of the member until a successor is appointed.; and

"in subsection (d); and

"section (d);

"(A) comprehensive mission statement describing the major functions and operations of the Commission;

"(B) a description of the goals and objectives of the Commission;

"(C) a description of the means by which those goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to achieve those goals and objectives;

"(D) a performance plan for achievement of those goals and objectives that is consistent with—

"(i) other components of the strategic plan;

"(ii) section 1115 of title 31, United States Code;

"(E) an identification of the key factors that are external to, or beyond the control of, the Commission that could significantly affect the achievement of those goals and objectives;

"(F) a description of the program evaluations used in establishing or revising those goals and objectives, including a schedule for future evaluations.

"(3) BIENNIAL PLAN.—

"(A) PERIOD COVERED.—The strategic plan shall cover a period of not less than 5 fiscal years, or such longer period as the fiscal year in which the plan is submitted.

"(B) UPDATES AND REVISIONS.—The strategic plan shall be updated and revised biennially or at such other time as the Commission determines.

"in subsection (d) as redesignated by paragraph (2)—

"(A) in paragraph (3), by striking "and" at the end of paragraph (3); and

"(B) by redesignating paragraph (4) as paragraph (5); and

"(C) by inserting after paragraph (3) the following:

"(d) the strategic plan for activities of the Commission described in subsection (c); and

"(e) COMMISSION STAFFING.—Section 8 of the Indian Gaming Regulatory Act (25 U.S.C. 2707) is amended—

"(1) in subsection (a), by striking "GS-18 of the General Schedule under section 5332" and inserting "level IV of the Executive Schedule under section 5332;" and

"(2) in subsection (b)—

"(A) by striking "(b) The Chairman" and inserting the following:

"(BB) STAFF.—

"(D) IN GENERAL.—The Chairman shall appoint and may reappoint any individual to the staff of the Commission with the approval of the Commission.

"(E) by adding at the end the following:

"(10) EXTENSION OF TERM OF TRIBAL-STATE COMPACT.—Any Tribal-State compact approved by the Secretary in accordance with paragraph (8) shall remain in effect for up to 180 days after expiration of the Tribal-State compact if—

"(A) the Indian tribe certifies to the Secretary that in good faith the Indian tribe requested a new compact not later than 90 days before expiration of the compact; and

"(B) a new compact has not been agreed on.

"(g) MANAGEMENT CONTRACTS.—Section 12 of the Indian Gaming Regulatory Act (25 U.S.C. 2712) is amended—

"(1) by striking the section heading and all that follows through "Subject" in subsection (a)(1) and inserting the following:

"SEC. 12. MANAGEMENT CONTRACTS.

"CLASS II GAMING ACTIVITIES; INFORMATION ON OPERATORS.—

"(1) SPONSORSHIP.—The Indian tribe may engage under this Act in any class II gaming activity that the Indian tribe may conduct with the approval of the Commission.

"(2) REVENUE SHARING.—The Commission shall, in the case of each operation that conducts a class II gaming activity, determine whether the operation shall share revenue with the tribe.

"(i) in the case of apportionment with local governments, the total amount of net revenues exceeds the amounts necessary to meet the requirements of clauses (i) and (ii) of subsection (b)(2)(B) but only to the extent that the excess revenues reflect the actual costs incurred by affected local governments as a result of the operation of gaming activities described in this Act;

"(ii) in the case of apportionment with a State—

"(I) the total amount of net revenues—

"(aa) exceeds the amounts necessary to meet the requirements of clauses (i) and (ii) of subsection (b)(2)(B) and clause (ii) of this subparagraph; or

"(bb) is in accordance with regulations promulgated by the Secretary under subsection (c); and

"(C) a substantial economic benefit is rendered to the State by the Indian tribe.

"(C) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall promulgate regulations to provide guidance to Indian tribes and States on the scope of allowable assessments negotiated under paragraph (3)(C) and the proportion of net revenues negotiated in accordance with subparagraph (B);

"(2) in paragraph (7)(B)(ii), by inserting "not later than 90 days after notification is made" after "the Secretary shall prescribe"; and

"(C) by adding at the end the following:

"(ii) in the case of apportionment with a State or a political subdivision of the State that is imposed on the gross revenues from each operation that conducts a class II gaming or class III gaming activity described in this Act; and

"(iii) in the case of apportionment with a political subdivision of a State, the total amount of net revenues—

"(aa) exceeds the amounts necessary to meet the requirements of clauses (i) and (ii) of subsection (b)(2)(B) and clause (ii) of this subparagraph; or

"(bb) is in accordance with regulations promulgated by the Secretary under subsection (c); and

"(C) a substantial economic benefit is rendered to the political subdivision by the Indian tribe.
each operation that conducts a class II gaming or class III gaming activity; or

(ii) a flat fee levied on the gross revenues from each operation that conducts a class I gaming activity or class II gaming activity.

(C) TOTAL AMOUNT.—The total amount of all fees imposed during any fiscal year under the schedule established under subparagraph (A) shall not exceed:

(i) $10,000,000 for each of fiscal years 2004 and 2005;

(ii) $11,000,000 for each of fiscal years 2006 and 2007; and

(iii) $12,000,000 for each of fiscal years 2008 and 2009.

(D) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(2) by redesignating subsection (b) as subsection (d);

(3) in paragraph (2) of subsection (d) as redesignated by paragraph (2), by striking “section 19 of this Act” and inserting “section 28”;

(4) by inserting after subsection (a) the following:

“(b) FEE PROCEDURES.—

“(1) IN GENERAL.—By a vote of not less than 2 members of the Commission, the Commission shall adopt the schedule of fees provided for under this section.

“(2) IN ASSESSING AND COLLECTING FEES.—In assessing and collecting fees under this section, the Commission shall take into account the duties of, and services provided by, the Commission under this Act.

“(3) REGULATIONS.—The Commission shall promulgate such regulations as are necessary to carry out this subsection.

“(c) FEE REDUCTION PROGRAM.—

“(1) IN GENERAL.—In making a determination of the amount of fees to be assessed for any class I gaming or class III gaming activity, the Commission, shall consider the extent and quality of self-regulation activities covered by this Act that are conducted by an Indian tribe; and

“(C) the factors determined by the Commission, including—

“(i) the unique nature of tribal gaming as compared with commercial gaming, other governmental gaming, and charitable gaming;

“(ii) the broad variations in the nature, scale, and size of tribal gaming activity;

“(iii) the inherent sovereign rights of Indian tribes with respect to regulating the affairs of Indian tribes;

“(iv) the findings and purposes under sections 4 and 5.

“(v) the amount of interest or investment income derived from the Indian gaming regulation accounts; and

“(vi) any other matter that is consistent with the purposes under section 3.

“(2) RULEMAKING.—The Commission shall promulgate such regulations as are necessary to carry out this subsection.

(i) ADDITIONAL AMENDMENTS.—The Indian Gaming Regulatory Act is amended—

(1) by striking section 19 (25 U.S.C. 2718a); and

(2) by redesigning sections 20 through 24 (25 U.S.C. 2719 through 2723) as sections 23 through 27, respectively;

(3) by inserting after section 18 (25 U.S.C. 2717) the following:

“SEC. 19. INDIAN GAMING REGULATION ACCOUNTS.—

“(a) IN GENERAL.—All fees and civil forfeitures collected by the Commission in accordance with this Act shall—

“(1) be maintained in separate, segregated accounts; and

“(2) be expended only for purposes described in this Act.

“(b) INVESTMENTS.—

“(1) IN GENERAL.—The Commission shall invest such portion of the accounts maintained under subsection (a) as are not, in the opinion of the Commission, required to meet immediate expenses.

“(2) TYPES OF INVESTMENTS.—Investments may be made only in interest-bearing obligations that are insured by the United States guaranteed to both principal and interest by the United States.

“(c) SALE OF OBLIGATIONS.—Any obligation acquired with funds in an account maintained under subsection (a)(1) except special obligations issued exclusively to those accounts, which may be redeemed at par plus accrued interest may be sold by the Commission at the market price.

“(d) CREDITS TO INDIAN GAMING REGULATORY ACCOUNTS.—The interest on, and proceeds from, the sale or redemption of any obligation held in an account maintained under subsection (a)(1) shall be credited to and form a part of the account.

“SEC. 20. MINIMUM STANDARDS.—

“(a) CLASS I GAMING.—Notwithstanding any other provision of law, class I gaming on Indian land—

“(1) shall remain within the exclusive jurisdiction of the Indian tribe having jurisdiction over the Indian land; and

“(2) shall not be subject to this Act.

“(b) CLASS II GAMING.—

“(1) IN GENERAL.—Subject to paragraph (2), an Indian tribe shall retain primary jurisdiction over regulation of class II gaming activities conducted by the Indian tribe.

“(2) CONDUCT OF CLASS II GAMING.—Any class II gaming activity shall be conducted in accordance with—

“(A) section 12; and

“(B) regulations promulgated under subsection (d).

“(c) CLASS III GAMING.—

“(1) IN GENERAL.—Subject to paragraph (2), an Indian tribe shall retain primary jurisdiction over regulation of class III gaming activities conducted by the Indian tribe.

“(2) CONDUCT OF CLASS III GAMING.—Any class III gaming activity operated by an Indian tribe under this Act shall be conducted in accordance with—

“(A) section 11; and

“(B) regulations promulgated under subsection (d).

“(d) RULEMAKING.—

“(1) IN GENERAL.—

“(A) PROMULGATION.—Not later than 180 days after the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, the Commission shall develop procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate regulations relating to—

“(i) the monitoring and regulation of tribal gaming;

“(ii) the establishment and regulation of internal control systems; and

“(iii) the conduct of background investigation.

“(B) PUBLICATION OF PROPOSED REGULATIONS.—Not later than 1 year after the date of enactment of the Indian Gaming Regulatory Act Amendments of 2003, the Commission shall publish in the Federal Register proposed regulations developed by a negotiated rulemaking committee in accordance with this section.

“(2) COMMITTEE.—A negotiated rulemaking committee established in accordance with section 504 of the United States Code, which carry out this subsection shall be composed only of Federal and Indian tribal government representatives, a majority of whom shall be nominated by and be representative of Indian tribes that conduct gaming in accordance with this Act.

“SEC. 21. USE OF NATIONAL INDIAN GAMING COMMISSION CIVIL FINES.—

“(a) ACCOUNT.—Amounts collected by the Commission under section 14 shall—

“(1) be deposited in a separate Indian gaming regulation account established under section 12(a)(1); and

“(2) be available to the Commission, as provided for in advance in Acts of appropriation, for use in carrying out this Act.

“(b) USES.—A grant or financial assistance provided under paragraph (1) may be used only to—

“(1) to provide technical training and other assistance to an Indian tribe to strengthen the regulatory integrity of Indian gaming;

“(2) to provide assistance to an Indian tribe to assess the feasibility of conducting nongaming economic development activities on Indian land;

“(3) to provide assistance to an Indian tribe to devise and implement programs and treatment services for individuals diagnosed as problem gamblers; or

“(4) to provide to an Indian tribe 1 or more other forms of assistance that are not inconsistent with this Act.

“(c) SOURCE OF FUNDS.—Amounts used to carry out subsection (b) may be derived only from funds—

“(1) collected by the Commission under section 14; and

“(2) authorized for use in advance by an Act of appropriation.

“(d) REGULATIONS.—The Commission may promulgate such regulations as are necessary to carry out this section.

“SEC. 22. TRIBAL CONSULTATION.—

“SEC. 23. INDIAN LAND—

"SEC. 28. AUTHORIZATION OF APPROPRIATIONS."

"(a) IN GENERAL.—Subject to section 18, there is authorized to be appropriated to carry out this Act, for fiscal year 1998 and each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a)."

"(b) AMOUNT.—Notwithstanding section 18, in addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated $2,000,000 for the operation of the Commission for fiscal year 1998 and each fiscal year thereafter:--.

By Mr. DASCHLE:

S. 1530. A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, I am pleased to introduce the Lower Brule and Crow Creek Sioux Tribal Parity Act of 2003.

This legislation is intended to provide additional and final compensation to the Lower Brule Sioux and Crow Creek Sioux Tribes for losses from the Pick-Sloan Missouri River Basin Program, commonly known as the "Flood Control Act of 1944".

The Pick-Sloan Program inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribe. Congress has provided compensation to several South Dakota Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of the Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes;

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes;

(8) the compensation provided, however, has not been consistent in terms of either criteria, or methodology. Based on the methodology determined appropriate by the General Accounting Office and used by Congress to determine the compensation for the Cheyenne River Sioux Tribe, new calculations have determined that Lower Brule is entitled to additional final compensation of $373,055,558 from the United States. The Crow Creek Sioux Tribe is entitled to additional compensation of $137,065,558 from the United States. The tribes are entitled to a total of $510,121,116.

SEC. 2. FINDINGS.

(1) the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 1085)) was approved to promote the general economic development of the United States;

(2) the Fort Randall and Big Bend dam and reservoir projects in South Dakota—

(a) are part of the Pick-Sloan Missouri River Basin Program; and

(b) contribute to the national economy;

(3) the Fort Randall and Big Bend projects inundated the fertile bottom land of the Lower Brule and Crow Creek Sioux Tribes, which greatly damaged the economy and cultural resources of the Tribes;

(4) Congress has provided compensation to several Indian tribes, including the Lower Brule and Crow Creek Sioux Tribes, which suffered injury as a result of the Pick-Sloan Projects;

(5) the compensation provided to those Indian tribes has not been consistent;

(6) Missouri River Indian tribes that suffered injury as a result of the Pick-Sloan Projects should be adequately compensated for those injuries, and that compensation should be consistent among the Tribes;

(7) the Lower Brule Sioux Tribe and the Crow Creek Sioux Tribe, based on methodology determined appropriate by the General Accounting Office, are entitled to receive additional compensation for injuries described in paragraph (6), so as to provide parity among compensation received by all Missouri River Indian tribes;

SEC. 3. LOWER BRULE SIOUX TRIBE.

Section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104-372, 110 Stat. 3697) is amended by striking "$39,300,000" and inserting "$37,398,012").

SEC. 4. CROW CREEK SIOUX TRIBE.

Section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (Public Law 104-223, 110 Stat. 3027) is amended by striking "$27,500,000" and inserting "$176,398,012").

By Mr. HATCH (for himself, Mr. LEAHY, Mr. WARNER, Mr. BINGMAN, Mr. ALLEN, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. LOUT DERBERG, Mr. BOND, Mr. HARKIN, Mr. DOMENICI, Mr. JEFFORDS, Mr. CHAMBLISS, Mr. ROCKEFELLER, Mrs. DOLE, and Mr. BREAUX):

S. 1531. A bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HATCH. Mr. President, I rise today in support of S. 1531, the John Marshall Commemorative Coin Act. This bill authorizes the Treasury Department to mint and issue coins bearing the likeness of Chief Justice John Marshall for the purpose of supporting the Supreme Court Historical Society. Sales of the coins (101 Stat. 1801) would be used to raise funds for the Society, to cover all of the costs of mintage and issuing these coins, so that the American taxpayer would not bear any cost whatsoever if this legislation were enacted.

Chief Justice Oliver Wendell Holmes once called John Marshall "the great Chief Justice." After 34 years on the bench, from 1801–1835, Marshall earned that title by establishing many of the constitutional doctrines we revere today. Writing over 500 opinions, he truly made the third branch of government co-equal with the legislative and executive branches.

John Marshall's greatness lay in his ability to figure out how to put in practice the concept of checks and balances. In powerfully written decisions, the Marshall Court established several constitutional doctrines, forming the bedrock of contemporary jurisprudence in the United States: establishing the Supreme Court, prohibiting State taxation of the Federal Government, making the federal supreme court final arbiter of decisions issued by State supreme courts, and expounding the limits of the contracts and commerce clauses. Indeed, he solidified early Federalist ideas by defining the relationships between the Federal Government and the States; a position that was forgotten and is only very recently re-emerging in our jurisprudence.

Born in 1755, Marshall was a key player in the founding generation who established our constitutional government. He was an early and active member in the revolutionary cause, joining the Virginia revolutionary army and fighting as one of George Washington's Officers in at least four major battles and enduring the winter at Valley Forge. Marshall later served as a member of Congress and as Secretary of State before his ascension to the Supreme Court.

There is no more fitting likeness for a coin that would support the efforts of the Supreme Court Historical Society. The Society is a non-profit organization whose purpose is to preserve and disseminate the history of the Supreme Court of the United States. Founded by Chief Justice Warren Burger, the Society's mission is to provide information and historical research on our Nations highest court. The Society acquires, conducts, and publishes programs, books, supporting historical research and collecting artifacts related to the Court's history.

Recent research includes efforts to capture the history of the Court during the Franklin D. Roosevelt period, the Civil War, and the evolution of the Chief Justice's role on the court. Lectures and programs are open to the public as are Society members. Additionally, the Society seeks to acquire the private papers, period furnishings, and art work relating to court history.

For all of these reasons, I urge my colleagues to join with me in this effort to memorialize the Great Chief Justice John Marshall and assist a worthwhile organization like the Supreme Court Historical Society.

Thank you, Mr. President, I yield the floor.

By Mr. LEAHY, Mr. President, I join my Judiciary Committee colleague Senator HATCH and others in introducing a bill to authorize the mintage of a commemorative coin in honor of United
Court Justice Joseph Story described learning which justifies confidence. Portment, gentleness of manners, gentility, moderation, candor, urbanity, 'important services rendered by [his father] to his country.' Fellow Supreme Court Justice Joseph Story described Marshall in the following terms: "Patience, moderation, candor, urbanity, quickness of perception, dignity of deportment, gentleness of manners, genius which commands respect, and learning which justifies confidence."

Congress' passage of the "John Marshall Commemorative Coin Act" in honor of the upcoming 250th anniversary of his birth would be a fitting complement to these, and other, recognitions of "the Great Chief Justice's" extraordinary accomplishment.

Marshall presided over the Supreme Court during the formative years of 1801-1835. Before that time, the Supreme Court played a comparatively minor role in both the Federal and state government. Under Marshall's leadership, the Court evolved into a powerful institution and assumed its role as guardian of the Constitution, and as the arbiter of disputes between the Federal government and the States. As one legal scholar later commented: "It is not inconceivable that the Supreme Court would have remained a minor appendage of our government, and our constitutional development taken a distinctly different course, but for the fact that John Marshall occupied the Chief Justice's chair during the first three decades of the nineteenth century."

Marshall is considered the founding father of American Constitutional law. To name just a few of Marshall's groundbreaking opinions, in Marbury v. Madison the first instance in which the Supreme Court pronounced an act of Congress unconstitutional is the leading precedent for the Court's power to judge the constitutionality of legislative and executive acts. In McCulloch v. Maryland, Marshall asserted the right of the Supreme Court to decide questions involving the conflicting powers of the Federal and State governments, affirmed Congress' authority to act in one of its enumerated powers, and established the standard for determining when the exercise of a Federal power limits the otherwise sovereign power of a State. In Cohens v. Virginia, Marshall established the authority of the Federal judiciary to review decisions of the highest State courts. As a final illustration of Marshall's many important judicial opinions, in Gibbons v. Ogden, he set forth Congress' power to regulate commerce among the States and with foreign nations.

Aside from the specific constitutional principles Marshall established while on the Court, he made many other important contributions to American constitutional law. For example, Marshall advocated that judges, as ultimate guardians of the Constitution, should be above politics and that the role of the Nation's courts was to mitigate the effects of factional politics. Moreover, Marshall adopted an approach to constitutional interpretation termed "fair construction" which struck a middle ground between an overly restrictive, and an overly broad, reading of the Constitution because he feared that a constitution would ultimately weaken the Constitution and, in due course, the Nation.

In closing, it is difficult to overstate Chief Justice Marshall's contributions to our Nation. Many years ago, when I read Marshall's opinions in my first year of law school, I admired the Chief Justice. Now, having served in Congress and worked within the principles Marshall established, I find him all the more admirable. A commemorative coin in his honor would be a fitting tribute to "the Great Chief Justice."

I ask unanimous consent that the text of bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Chief Justice John Marshall Commemorative Coin Act."

SEC. 2. FINDINGS.

Congress finds that—

(1) John Marshall served as the Chief Justice of the Supreme Court of the United States from 1801 to 1835, the longest tenure of any Chief Justice in the Nation's history; (2) Under Marshall's leadership, the Supreme Court expounded the fundamental principles of constitutional interpretation, including judicial review, and affirmed national supremacy, both of which served to secure the newly founded United States against dissolution; (3) John Marshall's service to the nascent United States, not only as Chief Justice, but also as a soldier in the Revolutionary War, as a member of the Virginia Congress and the United States Congress, and as Secretary of State, makes him one of the most important figures in our Nation's history.

SEC. 3. COINS.

(a) DENOMINATION.—In commemoration of the 250th anniversary of the birth of Chief Justice John Marshall, the Secretary of the Treasury shall mint and issue commemorative silver coins.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5133 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(d) DESIGN REVIEW.—(1) GENERAL.—The design of the coins minted under this Act shall be emblematic of Chief Justice John Marshall and his contributions to the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin; (B) an inscription of the year "2005"; and (C) inscriptions of the words "Liberty," "E Pluribus Unum," and "The United States of America," and "E Pluribus Unum."

(e) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, and the Supreme Court Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 4. ISSUANCE OF COINS.

QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMEMORATIVE COIN ACT OF 2005.—The Secretary may issue coins minted under this Act beginning on January 1, 2005.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2005.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins; and

(2) the surcharge provided in section 7 with respect to such coins; and

(b) DISCOUNT.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to pre-paid orders under paragraph (1) shall be at a reasonable discount.


(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Supreme Court Historical Society for the purposes of—

(1) historical research about the Supreme Court and the Constitution of the United States and related topics; (2) supporting fellowship programs, internships, and docents at the Supreme Court; and

(3) collecting and preserving antiques, artifacts and other historical items related to the Supreme Court and the Constitution of the United States and related topics.

(c) AUDITS.—The Supreme Court Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Society under subsection (b).

SEC. 7. FINANCIAL ASSISTANCE.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the printing and issuance of the coins under this Act in section 3(a) result in no net cost to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 3(a) unless the Secretary has received—
as well as others active on this issue, have come to realize that these programs are uncoordinated and, in some places, duplicative. There is no mechanism for these agencies to interact and assess the good work they are doing. That is why, in our legislation, we set up a Federal Financial Literacy Commission.

Made up of Federal decision makers with jurisdiction over one or more financial literacy programs, including the Federal Reserve, the FDIC, the Treasury Department, the Department of Housing and Urban Development, the Securities and Exchange Commission, and the Small Business Administration, our Commission, and its constituent members, will take all necessary steps to coordinate, streamline and improve existing programs. The Commission will also make recommendations to Congress on legislation that may be needed to improve financial education.

I am pleased to say that this new Commission will operate as a nexus for all Federal financial literacy materials, grants, and information; spearhead efforts to reach out to the public with financial literacy messages; manage and maintain a website promoting financial literacy and highlighting Federal grants, materials, and programs; and, it may feature private and non-profit resources available to the public.

Improving the state of financial literacy is a common sense thing to do. It is something that we can do through cooperation and strategic thinking about our Federal resources. And, it can be done with the input of all concerned interests. Many people in the Senate have worked diligently on the subject of financial literacy, including Mr. SARBANES, the Ranking Member of the Banking, Housing, and Urban Affairs Committee who has done important work on this subject.

I am pleased that Mr. ENZI is the lead Republican sponsor of this legislation; he is a true leader and cares passionately about this issue. And, I appreciate the leadership of the bipartisan group of Senators who have agreed to cosponsor our bill: Mr. HAGEL, Mr. SCHUMER, Mr. BAYH, Mr. CARPER, and Mr. CORZINE.

S. 1532. A bill to establish the Financial Literacy Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. STABENOW. Mr. President, I rise today to introduce the Financial Literacy Community Outreach Act of 2003. This bill, which I am proud to introduce with my colleague and friend, Mr. ENZI, is the product of several months of work. We have reached out to financial literacy advocates, financial institutions, Federal agencies, and other interested parties to craft a comprehensive bill to streamline, augment, and improve the government’s approach to financial literacy.

The need for this legislation is clear. Studies show alarming shortcomings in the state of financial literacy in America. For example, in a survey of consumers 18 years and older conducted by the American Association of Retired Persons in late 1998, only 11 percent of respondents correctly answered 4 basic financial questions. A study by the Jumpstart Coalition for Personal Financial Literacy found that, in 2002, on average, high school seniors could correctly answer only about 50 percent of a set of financial answers put to them, failing grade.

In addition, from 1990 to 2000, the outstanding credit card debt among households more than tripled from $200 billion to $600 billion. And, a 2002 study by John Hancock found that, in a study of 800 defined benefit contribution plan participants conducted by John Hancock in 2002, 50 percent of respondents said they spend half an hour or less per month managing their retirement funds.

These are all very disturbing statistics and, just a few examples of why I feel the need to act to improve our government’s approach to this problem. We need a clear and effective strategy to address these problems. We need a clear and effective strategy to address these problems.

The Federal Government understands that financial literacy is essential to a healthy economy and the protection of consumers. That is why many Federal departments and agencies have employed their resources and expertise to educate the public about how to accomplish such goals as realizing the dreams of homeownership, saving for a child’s college education, and planning for a secure retirement. These agencies do this through grant programs, through special training, and by developing financial literacy materials. Unfortunately, what Mr. ENZI and I, as well as others active on this issue,
TITLE I—FINANCIAL LITERACY COMMISSION

SEC. 101. ESTABLISHMENT OF FINANCIAL LITERACY COMMISSION.

(a) In General.—There is established a Commission to be known as the Financial Literacy Commission.

(b) Purpose.—The Commission shall serve to improve the financial literacy of persons in the United States by overseeing, implementing, and reporting upon the effects of the performance of the duties of the Commission set forth in section 102.

(c) Membership.—

(1) Composition.—The Commission shall be composed of not more than 19 members, including—

(A) the Comptroller of the Currency;

(B) the Secretary of Agriculture of the Department of Agriculture;

(C) the Secretary of Education of the Department of Education;

(D) the Secretary of Housing and Urban Development of the Department of Housing and Urban Development;

(E) the Secretary of Labor of the Department of Labor;

(F) the Secretary of Treasury;

(G) the Chairman of the Federal Deposit Insurance Corporation;

(H) the Chairman of the Board of Governors of the Federal Reserve System;

(I) the Chairman of the Federal Trade Commission;

(J) the Administrator of General Services of the General Services Administration;

(K) the Commissioner of the Internal Revenue Service;

(L) the Chairman of the National Credit Union Administration Board;

(M) the Director of the Office of Thrift Supervision;

(N) the Chairman of the Securities and Exchange Commission;

(O) the Administrator of the Small Business Administration;

(P) the Commissioner of the Social Security Administration;

(Q) at the discretion of the President, not more than 3 individuals appointed by the President from among the administrative heads of any other Federal agency, department, or other Government entity, whom the President believes would be helpful in implementing the purpose of the Commission.

(2) Designees.—The individuals referred to in paragraph (1) may appoint a designee from within the department or agency of that individual to serve as a member of the Commission.

(d) Federal Employee Requirement.—Each member of the Commission shall be an officer or employee of the United States.

(e) Chairperson.—The Commission shall select a Chairperson, who may appoint one of its members, the Secretary of the Treasury, or the designee thereof under subsection (c)(2), shall chair the initial meeting of the Commission.

(f) Vice Chairperson.—The Commission shall select a Vice Chairperson from among its members.

(g) Vacancies.—Any vacancy in the Commission shall be filled in the same manner as the original appointment or designation, as provided under subsection (c).

(h) Initial Meeting.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

(i) Semiannual Meetings.—The Commission shall hold, at the call of the Chairperson, 1 meeting every 6 months to conduct necessary business. All such meetings shall be open to the public.

(j) Discretionary Meetings.—The Commission may hold, at the call of the Chairperson, other meetings as the Chairperson sees fit to carry out this Act.

(k) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(l) Executive Committee.—

(1) In General.—The Commission shall establish an Executive Committee comprised of—

(A) the Chairperson;

(B) the Vice Chairperson; and

(C) at least 3 large members selected by the Commission from among members appointed under subsection (c).

(2) Term.—Members of the Executive Committee selected under paragraph (1) shall serve for such time as determined by the Commission.

(m) Meetings.—The Executive Committee shall hold, at the call of the Chairperson, 1 meeting every 2 months to conduct necessary administration business.

(n) Quorum.—A majority of the members of the Executive Committee shall constitute a quorum.

SECTION 102. DUTIES OF THE COMMISSION.

(a) In General.—The Commission, through the authority of the members referred to in section 101(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy programs, materials, and grants of the Federal Government.

(b) Website.—

(1) In General.—The Commission shall establish and maintain a website, and attempt to register the name “FinancialLiteracy.gov”, or, if such domain name is not available, a similar domain name.

(2) Purpose.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy programs;

(B) provide a central point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy;

(C) offer information on all Federal grants to promote financial literacy, and offer information to the public on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature websites links to private sector efforts, such as the JumpStart Coalition for Financial Literacy, to feature information about private sector financial literacy programs, materials, or campaigns;

(E) highlight information about best practices for teaching and promoting financial literacy; and

(F) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) Toll Free Hotline.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy.

(d) Development and Dissemination of Materials.—The Commission shall—

(1) develop materials to promote financial literacy; and

(2) disseminate such materials to the general public;

(e) Administration of Grant Programs.—

(1) Authority.—The Commission shall be authorized to establish and implement grant programs to promote financial literacy.

(2) Eligibility.—The Commission, under paragraph (1) may be awarded to schools, non-profit organizations, units of general local government, faith-based organizations, and such other entities as determined eligible by the Commission.

(3) Preferences.—In awarding grants under paragraph (1), the Commission shall—

(A) give preference to entities that have a demonstrated record of serving communities with people who have historically had either limited or no access to financial literacy education; and

(B) to the extent practicable, award grants to as many entities eligible under paragraph (2) as possible.

(f) Initial and Annual Reports.—

(1) Initial Report.—

(A) In General.—Not later than 18 months after the date of the first meeting of the Commission, the Commission shall issue an initial report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this Act.

(B) Contents.—The report required under subparagraph (A) shall—

(i) identify all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs; and

(ii) identify all actions that the Commission has taken to streamline, improve, or augment the financial literacy programs,
materials, and grants of the Federal Government.

(2) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than November 30 of each year, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for each of the fiscal years during which the Commission is in existence a report of the activities of the Commission during the preceding fiscal year, and making recommendations on ways to enhance financial literacy in the United States.

(B) CONTENTS.—The report required under subparagraph (A) shall include—

(i) information concerning the content and public availability of the website established under subsection (b);

(ii) information concerning the usage of the toll-free telephone number established under subsection (c);

(iii) summaries of the financial literacy materials developed under subsection (d), and data regarding the dissemination of such materials;

(iv) information about the activities of the Commission planned for the next fiscal year;

(v) a summary of all Federal efforts to reach individuals that have historically lacked access to financial literacy materials and education; and

(vi) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(g) PERIODIC STUDIES.—The Commission may conduct periodic studies regarding the state of financial literacy in the United States, as the Commission determines appropriate.

SEC. 103. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) ADVISORY COMMITTEES.—The Commission shall establish not fewer than 1 advisory committee, consisting of representatives of lending institutions, financial literacy nonprofit organizations, consumer advocates, State and local governments, and such other individuals that the Commission believes could contribute to the work of the Commission.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from a Federal agency or any component of a Federal agency such information as the Commission considers necessary to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(I) IN GENERAL.—The Chair of the Commission may, without regard to civil service laws and regulations, appoint and terminate the executive director or other personnel, including any other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by members of the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, for positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rates that are applicable to level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3312(b) of title 5, United States Code, at rates for individuals which do not exceed the daily rate of pay prescribed for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 105. TERMINATION.

The Commission shall terminate on September 30, 2013.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this Act, including administrative expenses of the Commission.

Mr. ENZI. Mr. President, the U.S. economy is still the greatest economy in the world and our credit markets have helped to make that happen. During the past two decades our credit markets have taken advantage of technology and innovation in order to provide more consumers with more timely credit approvals and with more financing options. Nowhere is there a better example of this than our housing market.

Today, the time it takes to review a mortgage application and approve it has been cut drastically. As our financial literacy outreach efforts grow, more and more families are purchasing homes in the past decade, even more families could buy homes if they understood how the credit market works.

Although there are many pluses to the availability of credit there is also a downside. Individuals may get in over their heads when too much credit is made available to them. In addition, identity theft is a bigger problem than it has been before. Consumers need to educate themselves about the potential problems they might face and how to avoid them.

Increasing consumer financial literacy is not just about providing information, however, it is about giving families the proper informational tools so that they can plan for their future in order.

Today, my friend and colleague, Senator STABENOW and I are introducing the "Financial Literacy Community Outreach Act" to help to bring together all of the federal government’s financial literacy programs under one roof.

The Department of Treasury, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Securities and Exchange Commission, the Department of Housing and Urban Development, and the Department of Labor are just a few of the many federal agencies that have established and excellent financial literacy programs and initiatives. These programs cover a wide variety of topics ranging from how to save, spend, and invest to programs that provide guidance on how to prepare for retirement, select a pension plan, or purchase a home. Still others help individuals avoid the threat of identity theft.

Unfortunately, consumers attempting to find financial literacy information and help from the federal government may find that information scattered throughout the government. Our bill would provide a one-stop-shop where consumers could find the appropriate financial literacy programs for their needs, and a single toll-free number will go a long way toward bringing this vital information to the individuals and families who need it.

In addition, the bill establishes the Financial Literacy Commission, a body comprised of the heads of the federal agencies with financial literacy programs. The Commission will ensure that the federal government has a cohesive and coordinated federal policy in the area of financial literacy. It will provide Congress with vital information on what can be improved in our government’s financial literacy outreach efforts. In addition to the web site and the toll-free number, the Commission will establish successful public/private partnerships already existing around the country.

One such partnership is thriving in my home state of Wyoming. The Wyoming Partners in HomeBuyer Education, led by the Wyoming Community Development Authority, includes local banks, real estate agents, the State of Wyoming, the U.S. Department of Agriculture, the U.S. Department of Housing and Urban Development, and Fannie Mae, that provide a way to provide distance learning to potential home-buyers through the use of compressed video technology. This training program is perfect for a state like Wyoming in that home-buyers in rural and urban communities have access to all of the essential elements of the home buying experience just like their urban community counterparts.

To date, more than 3,000 individuals have participated in the training program and it has led to making the home-buying process easier and more understandable for rural and urban families alike.

I strongly believe that this bill will help millions of families find the appropriate financial literacy materials they need to make better credit and investment decisions.
It is my pleasure to be cosponsoring this bill with Senator SABINO because of our shared concern about making financial literacy available to more families across the country. In addition, I would like to recognize Senator SABINO for his leadership on this critical issue. Senator SABINO introduced this bill last Congress. The Senate by unanimous consent in 1996 passed the legislation known as the Identity Theft Victims Assistance Act. Last year, the legislation had strong bipartisan support, as evidenced by the fact that Senator MIKE ENZI is cosponsoring it again. The bill has broad support from law enforcement, consumers' groups, and privacy advocates. Last year, the Center for the Victims of Crime, the Fraternal Order of Police, Consumers Union, Identity Theft Resource Center, U.S. Public Interest Group, Police Executive Forum, Privacy Rights Clearinghouse, and Amazon.com supported the bill. Twenty-two state Attorneys General signed a letter supporting the legislation.

Identity theft is the fastest-growing crime in the country. The Federal Trade Commission found that complaints of identity theft increased 87 percent between 2001 and 2002, and over 161,000 complaints were received by the agency last year. A July 2003 study by Gartner Inc. found that there was a 79 percent increase in identity theft in the past year. The Identity Theft Resource Center now accounts for 43 percent of consumer fraud complaints and leads the list of consumer fraud. It is an insidious crime because it often occurs without the victim's knowledge, yet leaves scars on their credit that can last for years, and cost thousands of dollars to repair.

The Secret Service has estimated that consumers lose $745 million to the problem each year, and this number is clearly growing as the number of identity thefts increases. When a victim realizes that his or her identity was stolen, it's just the beginning of their troubles. The FTC estimates that it costs each identity theft victim an average of $2,800 in out-of-pocket costs and uses 175 hours to clear their names. But the costs are not confined to consumers—identity theft hits businesses and the economy, too. Identity theft-related losses suffered by MasterCard and Visa jumped from $79.9 million in 1996 to $164.3 million in 2002. One study estimates that by 2006 identity theft will cost the financial institution sector alone $8 billion per year.

To take just one of many examples from my state, Jenni D'Avis of Mill Creek, Washington, had her Social Security number stolen when a thief took her mail and found the number listed on a letter from her community college. The criminal used the number to obtain a credit card and in turn used that to get credit. In just 23 days, the thief ran up $100,000 in bad debt—all in Jenni's name. Once she became aware of the problem, she had to become a "Nancy Drew," and track down all those fraudulent uses. She was reluctant to give her the information she needed to determine the extent of the problem and clear her name and credit record. She is still repairing the damage.

Sadly, Jenni's story is not unique. Victims of identity theft have difficulty restoring their credit and regaining control of their identity, in part, because they have no simple means to show creditors and credit reporting agencies that they are who they say they are. In order to prove that they were not the victim of fraud, a victim often needs copies of credit transactions, such as applications and information, and records from the companies the identity thief did business with. Ironically, victims have difficulty obtaining these business records because the victim's personal identifying information does not match the information on file with the business. This bill fixes that problem. The Identity Theft Victims Assistance Act creates a standardized national process for a person to establish he or she is a victim of identity theft for purposes of tracing fraudulent credit transactions and obtaining the evidence to repair them. It requires the Federal Trade Commission to make available a simple certificate that, when notarized, provides certainty to businesses and financial institutions that the person is who they claim to be, is a victim of identity theft. In order to prove that document the fraud to the victim within 20 days. This is a critically important change from current law because it makes it easier for victims to obtain the evidence they need while also providing businesses more certainty that they are not violating someone's privacy or providing sensitive information to the wrong parties. It also provides new liability protections for businesses that make a good faith effort to assist victims of identity theft.

The need for a national system is readily apparent, as identity theft is increasingly a crime that crosses state lines. One of the greatest challenges identity theft presents to law enforcement is that a stolen identity is used in different localities in different states. Although identity theft is a federal crime, most often, state and local law enforcement agencies are responsible for investigating and prosecuting the criminals. Yet law enforcement has not yet fully recognized the serious nature of the problem or to develop a coordinated investigative strategy. For example, in the case of Michael Calip of Centralia, Washington, identity thieves not only ran up $60,000 in debts, they also committed crimes using his name—trashing his credit record and creating a criminal record. Michael tracked the thieves to Wyoming, but had difficulty convincing local authorities there to pursue his case.

My bill for the first time also permits a victim to designate the investigating agency, either local or state law enforcement or federal investigators, to act as their agents in obtaining evidence. This will reduce the burden on the victim and aids police in investigating suspected identity theft rings. In addition it requires the existing Identity Theft Coordinating Committee to consult with state and local enforcement agencies on identity theft.

Acquiring the evidence of the fraudulent use of identity currently can be an enormous and time-consuming problem for victims. The Identity Theft Victims Assistance Act makes this job easier by establishing that any business presented with the FTC certificate identifying the person as a victim of identity theft, together with a police report and a government issued photo ID must deliver copies of all the financial records that document the fraud to the victim within 20 days. This is an important change from current law because it guarantees that victims will be able to obtain the evidence they need while also providing businesses more certainty that they are not violating someone's privacy or providing sensitive information to the wrong parties. It also provides new liability protections for businesses that make a good faith effort to assist victims of identity theft.

The greatest harm to consumers victimized by theft of their identity is often a bad credit rating or a poor credit score that results from fraudulent use of the consumer's identity. According to the FTC, it often takes about a year for people to discover someone is using personal information to obtain credit. Even after a consumer reports to a credit reporting agency that their identity has been used, the law does not provide protection. In the case of identity theft, the consumer often can not get the reporting agencies to block reporting of activities that resulted from the identity theft.
My bill again requires that presentation of the FTC certificate, police report and photo identification establish that the person is in fact a victim of identity theft and requires credit-reporting agencies to block information that appears on a victim's credit report as a result of the identity theft. It also changes current law that requires individuals to bring suit against a credit reporting agency within two years from the time the agency commits a violation of laws on fair reporting of credit. This makes little sense, since it may be years before a misrepresentation comes to the attention of a victim of identity theft. The bill requires that the statute of limitations begin ticking from the time when a consumer discovers or has reason to know that a misrepresentation by a credit reporting agency has occurred.

The bill leaves in place state laws that are more stringent and provides that either federal prosecutors or State Attorneys General may enforce this law.

Jenni and Michael's stories illustrate the unique problems victims of identity theft face. Although penalties exist, redress, no remedies are available for their victims. The scope of the problem is made worse because it's too easy for a criminal to steal someone's identity and cause serious harm before the theft is even discovered. These criminals cross state lines, it can be even harder for victims to trace the problem and repair the damage. For these reasons, it's imperative that we pass federal legislation for the victims of identity theft.

The government, creditors and credit reporting agencies have a shared responsibility to assist identity theft victims mitigate the harm that results from frauds perpetrated in the victim's name. We need to build up the law enforcement already started by the Federal Trade Commission and other federal agencies under the Identity Theft and Assumption Deterrence Act of 1998. We need to further improve law enforcement coordination, particularly between the various local and state jurisdictions combating identity theft and the associated crimes.

We also need to provide better and timelier information to businesses so they can head off fraud before it happens. That is why my bill also expands the jurisdiction of the interagency coordinating committee established under the Internet False Identification Act of 2000. Currently, the coordination committee has the mandate to study and report to Congress on the crimina investigation and enforcement of identity theft crimes. The Identity Theft Victims Assistance Act broadens the mandate for the coordinating committee to consider state and local enforcement of identity theft. The law also specifically requires the committee to examine and recommend what assistance the federal government can provide state and local law enforcement agencies to better coordinate in the battle against identity theft. Mr. President, there is no doubt about the scope of the problem: identity theft is already a major problem, and it's getting worse. We must provide consumers with the tools they need to regain control of their lives. The Identity Theft Victims Assistance of 2003 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

I ask unanimous consent that the text of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft Victims Assistance Act of 2003."

SEC. 2. FINDINGS.

Congress finds the following:

(1) The crime of identity theft is the fastest growing crime in the United States. According to a recent estimate, 7,000,000 Americans were victims of identity theft in the past year, a 79 percent increase over previous estimates.

(2) Stolen identities are often used to perpetrate crimes in many cities and States, making it more difficult for consumers to restore their respective identities.

(3) Identity theft costs consumers more than $745,000,000 in 1998 and has increased dramatically in the last few years. The credit card industry alone lost an estimated $143.3 million in 2000.

(4) Identity theft is ruinous to the good name and credit of consumers whose identities are misappropriated, and consumers may be denied otherwise deserved credit and may have to spend enormous time, effort, and money to restore their respective identities.

(5) Victims are often required to contact numerous Federal, State, and local law enforcement agencies and creditors over many years as each event of fraud arises.

(6) As of the date of enactment of this Act, a national mechanism does not exist to assist identity theft victims to obtain evidence of identity theft, restore their credit, and re-gain control of their respective identities.

(7) Victims of identity theft need a nationally standardized means of—

(A) establishing their true identities and claims of identity theft to all business entities, credit reporting agencies, and Federal and State law enforcement agencies;

(B) having information documenting fraudulent transactions from business entities;

(C) reporting identity theft to consumer credit reporting agencies.

(8) One of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes.

(9) Law enforcement, business entities, credit reporting agencies, and government agencies have a shared responsibility to assist victims mitigate the harm caused by any fraud perpetrated in the name of the victims.

SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028 the following:

"1028A. Treatment of identity theft mitigation.

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial services or financial information repository

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

(A) account numbers and balances;

(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

(C) passwords, account numbers, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

"(5) the term 'identity theft' means a violation of section 1028 or any other similar provision of applicable Federal or State law;

"(6) the term 'means of identification' has the same meaning given the term in section 1028; and

"(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or with the intent to aid or abet, an identity theft; and

"(8) the terms not defined in this section or otherwise defined in section 3(s) of the Gramm-Leach-Bliley Act (15 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

"(b) INFORMATION AVAILABLE TO VICTIMS.—

(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided, or otherwise transferred, for consideration, products, goods, or services, accepted payment, otherwise entered into a commercial transaction for consideration with a person that has made unauthorized use of the means of identification of the victim, or possesses information relating to such transaction, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

(A) the victim;

(B) any Federal, State, or local governing law enforcement agency, upon request, specified by the victim in such a request; or

(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

(2) RULE OF CONSTRUCTION.—
must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that:

(1) the business entity has made a reasonable search of its available business records; and

(2) the records requested under this section do not exist or are not available.

(b) PROPERLY COMPLETED AFFIDAVIT.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

(i) ENFORCEMENT.—

(1) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(A) IN GENERAL.—Whenever it appears that a business entity to which this section applies has engaged, is engaged, or is about to engage, in a practice constituting a violation of this section, the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to:

(1) enjoin such act or practice;

(2) enforce compliance with this section; and

(3) obtain such other equitable relief as the court determines to be proper.

(B) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under subparagraph (A), a violation of this section shall be deemed an unfair or deceptive act or practice for the purpose of the exercise by the Federal Trade Commission of its functions and powers under that Act.

(ii) AVAILABLE FUNCTIONS AND POWERS.—All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this section.

(iii) Obtaining such other equitable relief as the court determines to be proper.

(B) OTHER FEDERAL AGENCIES.—Compliance with any requirements under this section may be enforced by any agency under subparagraph (B) for the purpose of the exercise by any agency referred to under subparagraph (B) of its powers under any such Act.

(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a Federal agency from exercising the powers conferred upon such agency by Federal law to:

(I) conduct investigations;

(II) administer oaths or affirmations; and

(III) compel the attendance of witnesses or the production of documentary or other evidence.

(3) PARENTS PATRIAE AUTHORITY.—

(A) CIVIL ACTIONS.—In any case in which the Attorney General of the United States, and where applicable, to the appropriate federal agency with the authority to enforce this section under paragraph (2)

(i) a written notice of the action; and

(ii) a copy of the complaint for the action.

(B) NOTICE.—Before filing an action under subparagraph (A), the Attorney General of the State involved shall, if practicable, provide to the Attorney General of the United States, and where applicable, to the appropriate federal agency, with the authority to enforce this section under paragraph (2)

(i) a written notice of the action; and

(ii) a copy of the complaint for the action.
General of the United States, and any Federal agency with authority to enforce this section under paragraph (2), shall have the right to intervene in that action.

(b) Treatment of identity theft mitigation plans—

(1) Reintervention.—A consumer reporting agency shall reintervene in any information that a consumer has requested to be blocked under paragraph (2) in accordance with the requirements of subsections (a) through (d).

(2) Notice.—A consumer reporting agency shall, within the time period specified in subsections (a) and (c) and the requirements of the effective date of the block, notify the consumer that the blocked information has been removed.

(c) Service of process.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of the United States, or any Federal agency, from using the process conferred on such attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(d) Limitation on state action while federal action is pending.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States, or any Federal regulatory agency authorized under paragraph (2), for a violation of this section, no State may, during the pendency of that action, institute an action under this section against any defendant named in the complaint in that action for such violation.

(e) Venue and service of process.—

(A) Venue.—Any action brought under this subsection may be brought in the district court of the United States—

(i) where the defendant resides; or

(ii) where the defendant is doing business; or

(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

(B) Service of process.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) resides;

(ii) is doing business; or

(iii) may be found.

(f) Clerical amendment.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 18, United States Code, is amended by adding at the end the following:

(e) Block of information resulting from identity theft.—

(1) Block.—Except as provided in paragraphs (4) and (5) and not later than 30 days after the date of receipt of—

(A) proof of the identity of a consumer; and

(B) an official copy of a police report evidencing the claim of the consumer of identity theft,

a consumer reporting agency shall block the reporting of any information identified by the consumer as constituting the identity theft, so that the information cannot be reported.

(2) Reintervention.—A consumer reporting agency shall reintervene in any information that a consumer has requested to be blocked under paragraph (1) in accordance with the requirements of subsections (a) through (d).

(3) Notice.—A consumer reporting agency shall, within the time period specified in subsections (a) and (c) and the requirements of the effective date of the block, notify the consumer that the blocked information has been removed.

(B) notif...
"(A) the Committee on the Judiciary of the Senate; 
"(B) the Committee on the Judiciary of the House of Representatives; 
"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and 
"(D) the Committee on Financial Services of the House of Representatives; 
(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies to address identity theft; and 
(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person; 
(i) facilitate more effective investigation and prosecution of cases involving 
(ii) the creation and distribution of false identification documents; 
(iii) the ineffectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and 
(iv) recommendations in the discretion of the President, if any, for legislative or administrative changes that would— 
(1) facilitate more effective investigation and prosecution of cases involving 
(2) the creation and distribution of false identification documents; and 
(3) the ineffectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and 
(iv) recommendations in the discretion of the President, if any, for legislative or administrative changes that would— 
(I) facilitate more effective investigation and prosecution of cases involving 
(II) the creation and distribution of false identification documents; and 
(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person; 
(A) the Committee on the Judiciary of the Senate; and 
(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and 
"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft; and 
"(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would— 
(1) facilitate more effective investigation and prosecution of cases involving 
(2) the creation and distribution of false identification documents; and 
(3) the ineffectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and 
(4) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

My legislation would prohibit the Postal Service from closing post offices in our Nation’s small rural communities. Where the Postal Service has closed a rural post office, my legislation directs the Postal Service to provide a plan for the rehabilitation and economic development of such closed offices in consultation with the local community affected. It also authorizes $10 million in grants to local communities to assist in such rehabilitation. Finally, it provides that the Postal Service shall transfer the closed post office in Ely, NV, to White Pine County for such rehabilitation.

All across the Nation, the Postal Service is closing, consolidating, and moving post offices in our rural communities. Oftentimes, the Postal Service sells off centrally located and in many cases historic post offices in favor of moving the office to cheaper land on the outskirts of town. While this may result in a short-term economic gain to the Postal Service, there is both an immediate and long-term negative impact on the community.

A 1993 study by the National Trust for Historic Preservation tells us what we intuitively already know. That is, in rural communities, the post office is often the economic and social anchor of the town. When post offices are closed in our rural communities, nearby businesses suffer and the small-town character of the community is diminished.

Nevada knows the harm caused by closing rural post offices first hand.
Take the small town of Ely, NV, where roughly 3,700 Nevadans make their home. Located in northeastern Nevada, Ely is a charming small town surrounded by beautiful mountains and the cleanest air in America. Decades ago, Ely was a main stopover for public officials and the whole State of Nevada. Near the Hotel Nevada, Ely had a quaint post office that helped form the center of town. Today if you go to Ely, you will still find the Hotel Nevada. The mountains are just as beautiful. But you won't find the Ely Post Office in the center of town. Last year, over my objection and the objection of the people of Ely, the Postal Service closed the office. My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community.

My legislation is not intended to be a criticism of the Postal Service. Many fine public officials and private organizations work there. In fact, my bill is really a testament to the importance of our post offices and rural post offices, and to enhance the economic health and quality of life of rural communities. My bill is intended to be a testament to the importance of our post offices and rural post offices, and to enhance the economic health and quality of life of rural communities. My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community. My legislation is not intended to be a criticism of the Postal Service. Many fine public officials and private organizations work there. In fact, my bill is really a testament to the importance of our post offices and rural post offices, and to enhance the economic health and quality of life of rural communities. My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community. My legislation is not intended to be a criticism of the Postal Service. Many fine public officials and private organizations work there. In fact, my bill is really a testament to the importance of our post offices and rural post offices, and to enhance the economic health and quality of life of rural communities. My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community. My legislation is not intended to be a criticism of the Postal Service. Many fine public officials and private organizations work there. In fact, my bill is really a testament to the importance of our post offices and rural post offices, and to enhance the economic health and quality of life of rural communities. My legislation introduced today would help prevent future rural post office closings like the one in Ely. It would also give the closed post office in Ely to the local community.
These changes will increase the number of eligible roads but also preserve the purpose of the program as facilitating international trade. Water ports play a very important role in international trade. For many sectors of the economy that rely on a majority of their supplies and sales through these ports. The growth in truck traffic at the intermodal ports is a toll on the connecting highways. Many of these intermodal road connectors are in a state of severe deterioration.

The recent USA's 46 States have received funding from the corridors program. Because goods imported from Canada and Mexico end up in virtually every place in the U.S., improving the Borders and Corridors program will benefit every State and the nation's economy as a whole. Our bill will grant eligibility to roads in all 50 States.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Highway Borders and Trade Act of 2003.”

SEC. 2. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

§ 165. Coordinated border infrastructure program

(a) DEFINITIONS.—In this section—

(1) BORDER REGION.—The term ‘‘border region’’ means the portion of a border State that is located within 100 kilometers of a land border crossing with Canada or Mexico.

(2) BORDER STATE.—The term ‘‘border State’’ means any State that has a boundary with the international border with Canada and Mexico.

(3) COMMERCIAL VEHICLE.—The term ‘‘commercial vehicle’’ means any vehicle that is used for the primary purpose of transporting goods or passengers between the United States and Mexico.

(4) PASSENGER VEHICLE.—The term ‘‘passenger vehicle’’ means a vehicle that is used for the primary purpose of transporting individuals.

(b) PROGRAM.—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary shall make allocations to border States for projects within a border region to improve the safe movement of people and goods at or across the border between the United States and Mexico.

(c) ELIGIBLE USES.—Allocations to States under this section may only be used in a border region—

(1) improvements to transportation and supporting infrastructure that facilitate cross-border vehicular and cargo movements;

(2) construction of highways and related safety and enforcement facilities that will facilitate vehicle and cargo movements relating to international trade;

(3) intermodal improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross-border vehicle and cargo movement; and

(4) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross-border vehicle and cargo movements;

(5) projects in Canada or Mexico proposed by 1 or more border States that directly and predominantly facilitate cross-border vehicle and commercial cargo movements at the international gateways or ports of entry into a border State in the United States;

(6) planning and environmental studies;

(d) MANDATORY AND DISCRETIONARY PROGRAMS.—

(1) MANDATORY PROGRAM.—

(A) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in subparagraph (B), funds to be used in accordance with subsection (C).

(B) FORMULA.—Subject to subparagraph (C), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

(i) 25 percent in the ratio that—

(I) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

(II) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico, as the case may be; bears to

(ii) 25 percent in the ratio that—

(I) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

(II) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

(iii) 25 percent in the ratio that—

(1) the number of all commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

(2) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

(iv) 25 percent in the ratio that—

(1) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

(2) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

(C) DATA SOURCE.—

(ii) IN GENERAL.—The data used by the Secretary to make allocations under paragraph (1) shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or similar data bases).

(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), for each fiscal year, each border State shall receive at least 0.5 percent of the funds available for allocation under this paragraph for the fiscal year.

(e) ADMINISTRATION.—Funds transferred under paragraph (1) shall be administrated in accordance with the procedures applicable to the United States General Services Administration, except that funds shall be available for obligation in the same manner as other Federal funds appropriated under this chapter.

(f) TRANSFER OF FUNDS TO THE ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—At the request of a border State, funds allocated to the State under this section shall be transferred to the Administrator of General Services for the purpose of funding a project under the administrative jurisdiction of the Administrator in a border State if the Secretary determines, after consultation with the State transportation department, as appropriate, that—

(A) the Administrator should carry out the project; and

(B) the Administrator agrees to use the funds to carry out the project.

(2) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred under paragraph (1) shall not be deemed to be an augmentation of the amount of appropriations made to the General Services Administration.

(g) FUNDING.—Funds transferred under paragraph (1) shall be obligated by the Secretary in accordance with the procedures applicable to the General Services Administration, except that the Secretary shall determine the manner in which funds shall be obligated in the same manner as other Federal funds appropriated under this chapter.

(h) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the Administrator of General Services in the same manner and amount as funds are transferred for a project under paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Highway Infrastructure Improvement Account) for each of fiscal years 2004 through 2009, of which—

(A) $100,000,000 shall be used to carry out subsection (a) and

(B) $100,000,000 shall be used to carry out subsection (d)(2).

S10667

July 31, 2003
"(2) Obligation authority.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.

(3) Obligation and apportionment of amounts made available to the States under this subsection.

SEC. 3. NATIONAL TRADE CORRIDOR PROGRAM.

(a) Definition of intermodal road connector.

(b) Obligation authority.

(c) Allocation formula.

(d) Eligible uses of funds.

(e) Applications.

(f) Coordination of planning.

(g) Cost sharing.

(h) Funding.

(i) Authorization of appropriations.

SEC. 4. CONFORMING AMENDMENTS.

(a) Section 1101(a) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking paragraph (9) and inserting the following:

"(9) Coordinated border infrastructure program and national trade corridor program.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009.

(2) MAXIMUM ALLOCATION.

(A) The average annual weight of freight transported on the corridor; and

(B) The percentage by which freight traffic increased, during the most recent 5-year period for which data are available, on the corridor; and

(3) Location and routing study; and

(4) Multistate and intrastate coordination.

(5) Environmental review; and

(6) Construction.

(7) Application Formula.—

(a) In General.—The Secretary shall allocate funds among States under this section in accordance with a formula determined by the Secretary after taking into consideration, with respect to the application for an allocation of funds under this section—

(1) a feasibility study;

(2) a comprehensive corridor planning and design study;

(3) a location and routing study;

(4) environmental review; and

(5) construction.

(b) Application of Appropriations.—

There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009.

(2) Authorization of Funds.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.

(3) Obligation Authority.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.

(4) Applications.—A State that seeks to receive an allocation under this section shall submit to the Secretary an application in such form, and containing such information, as the Secretary may require.

(5) Eligibility of Counties.—A State may use an allocation under this section to carry out a program for an eligible corridor described in subsection (c)—

(1) a feasibility study;

(2) a comprehensive corridor planning and design study;

(3) a location and routing study;

(4) multistate and intrastate coordination for each corridor;

(5) environmental review; and

(6) construction.

(7) Allocation Formula.—

(a) In General.—Subject to paragraph (2), the Secretary shall allocate funds among States under this section in accordance with a formula determined by the Secretary after taking into consideration, with respect to the application for an allocation of funds under this section—

(1) the average annual weight of freight transported on the corridor;

(2) the percentage by which freight traffic increased, during the most recent 5-year period for which data are available, on the corridor; and

(3) the annual average number of tractor-trailer trucks that use the corridor to access other States.

(b) Maximum Allocation.—Not more than 30 percent of the funds made available for a fiscal year for allocation under this section may be allocated to any State for the fiscal year.

(c) Coordination of Planning.—Planning with respect to a corridor for which an allocation is made under this section shall be coordinated with—

(1) the construction planning being carried out by the States and metropolitan planning organizations along the corridor; and

(2) the applicable corridor in the State into which it enters.

(d) Eligible Uses of Funds.—A State may use an allocation under this section to carry out a program to allocate funds to—

(1) a feasibility study;

(2) a comprehensive corridor planning and design study;

(3) a location and routing study;

(4) a corridor planning and design study; and

(5) environmental review; and

(6) construction.

(e) Applications.—A State that seeks to receive an allocation under this section shall submit to the Secretary an application in such form, and containing such information, as the Secretary may require.

(f) Coordination of Planning.—The Secretary shall allocate funds among States under this section in accordance with a formula determined by the Secretary after taking into consideration, with respect to the application for an allocation of funds under this section—

(1) a feasibility study;

(2) a comprehensive corridor planning and design study;

(3) a location and routing study; and

(4) multistate and intrastate coordination.

(5) Autonomy of Local Governments.—The Secretary, in determining the amounts to be allocated among the States and metropolitan planning organizations along the corridor, shall—

(1) consult the States and metropolitan planning organizations along the corridor;

(2) apportion the amounts to be allocated among the States; and

(b) PROGRAM.

(1) IN GENERAL.—The Federal share of the cost of a project carried out using funds made available under this section shall not exceed 80 percent.

(2) FUNDING.—Funds made available to carry out this section shall be available for obligation as if the funds were apportioned in accordance with section 104.

SEC. 4. CONFORMING AMENDMENTS.

(a) Section 1101(a) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking paragraph (9) and inserting the following:

"(9) Coordinated border infrastructure program and national trade corridor program.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009.

(b) Sections 1118 and 1119 of the Transportation Equity Act for the 21st Century (112 Stat. 136) are repealed.

(c) The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 2), is repealed.

(d) The IOM found that despite warnings from the Centers for Disease Control and Prevention, the Food and Drug Administration failed to require blood banks to perform screening tests on donated blood and neglected to require proper labeling of blood units. The IOM found that despite warnings from the Centers for Disease Control and Prevention, the Food and Drug Administration failed to require the recall of contaminated products, nor did it require that recipients of contaminated blood products be promptly notified so they could prevent passing the virus to their loved ones.

People like us deserve the same consideration given to those in the hemophilia community who suffered the same fate. Congress passed legislation in 1998, to help patients with hemophilia who contracted HIV-tainted blood.

This year marked our 29th anniversary since our children and I sat by his bedside, and upon our son’s passing in 1979, I became a vocal advocate for those like Steven Grissom who were left out. My husband may be gone, but I hope that the Steven Grissom Relief Fund will be his legacy to the community of Americans with transfusion AIDS, an expression of compassion to a community nearly forgotten.

Sincerely,

SANDRA GRISSOM.

By Mrs. LINCOLN:

S. 1537. A bill to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LINCOLN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF PROPERTY IN POPE COUNTY, ARKANSAS.

(a) Conveyance on Condition Subsequent.—Not later than 90 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the ‘Secretary’), shall convey to the New Hope Cemetery Association (referred to in this section as the ‘Association’), the parcel of land described in subsection (b).

(b) Description of Land.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) that—

(1) is known as ‘New Hope Cemetery Tract 66’;

(2) consists of approximately 1.1 acres; and

(3) is more particularly described as a portion of the SE 1⁄4 of the NW 1⁄4 of section 30, T. 13 N., R. 12 W., Pope County, Arkansas.

(c) Condition on Use of Land.—

(1) In General.—The Association shall use the parcel conveyed under subsection (a) as a cemetery.

(2) Reversion.—If the Secretary, after notice to the association and an opportunity..."
for a hearing, makes a finding that the association has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the association fails to discontinue that use, the parcel shall, at the option of the Secretary, revert to the United States, to be administered by the Secretary.

By Mr. REED (for himself, Mr. VOINOVICH, Mr. SARBANES, Ms. SNOWE, Mr. JEFFORDS, Mr. LEVIN, and Mr. HARKIN).

S. 1539. To amend the Federal Water Pollution Control Act to establish a National Clean and Safe Water Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act and the Safe Drinking Water Act, and for other purposes; to the Committee on Environment and Public Works.

Mr. REED. Mr. President, we often don't think about how important water is to our everyday lives, for our health and for our economy. As Americans, we take for granted that when we turn on the tap that clean and safe water will flow from it. 

Over the last three decades, the United States has made substantial progress in reducing the pollution flowing into our waters and safeguarding drinking water resources for our communities. Despite our progress, we still face many challenges.

Population growth is increasing demand for water, and pollution from point and nonpoint sources threaten the quality and quantity of water available to us. According to EPA, the overwhelming majority of the population of the United States—218 million people—live within 10 miles of a polluted river, lake, or coastal water. Nearly 40 percent of these waters are not safe for filling, swimming, fishing, drinking water, or other needs. And while overall water pollution levels decreased dramatically over the last 30 years, recent data may be revealing a disturbing trend. Indeed, EPA's most recent National Water Quality Inventory found that the number of polluted rivers and estuaries increased between 1998 and 2000. Water pollution represents a real and daily risk to the drinking water supplies for our communities. It is imperative that we increase Federal investment in clean water and drinking water infrastructure and devote greater resources and attention to protecting our watersheds and aquifers.

The Congressional Budget Office released a report that estimated the spending gap for clean water needs could reach as high as $368 billion and the spending gap for drinking water needs could reach $362 billion over 20 years. The CBO concluded the current funding from all levels of government and current revenue generated from ratepayers will not be sufficient to meet the Nation's demand for water infrastructure. Yet, despite these grim statistics, the Federal Government is investing only $1.35 billion in Clean Water infrastructure each year and $850 million in Drinking Water infrastructure. And, unfortunately, the President's budget proposes to cut this funding by $500 million this year.

Given the tremendous need in our communities, and the importance of water infrastructure to our economy, it is vital that the Federal Government maintain a strong partnership with States and local governments to avert this massive funding gap. We need to find new funding sources for watershed and aquifer protection. Clean, safe and abundant drinking water can no longer be taken for granted.

The costs of building new reservoirs and treatment facilities threaten to overburden our ability to pay, especially during the current fiscal crisis. Technology also has limitations in its ability to treat polluted water. Many water agencies are focusing on protecting watersheds and aquifers and conserving valuable clean water resources. In my State, the Providence Water Supply Board collects 1 cent per 100 gallons in a water usage tax to fund watershed acquisition. This may be our best and cheapest way to guarantee water quality and quantity.

Congress needs to increase support for efforts to protect our water resources. Polluted runoff from urban and agricultural land is now the most significant source of water pollution in the nation and the greatest threat to our drinking water. Our greatest future gains in pollution control will, therefore, come from reducing non-point source pollution.

There are cost-effective and environmentally sound projects that could help reduce this pollution, but currently, many non-point source projects cannot participate in the State revolving loan programs since they often do not have a guaranteed source of revenue. Also, without making new Federal resources available it is unlikely we will be able support increased investments in infrastructure projects such as wetland conservation and stream buffers. The legislation that we are introducing today will make greater funding available for water quality projects.

I hope that my colleagues will join Senators VOINOVICH, SARBANES, SNOWE, JEFFORDS, LEVIN, HARKIN and me in supporting this legislation. Creating this fund will help further the Nation's goals of providing safe and clean water for our communities and restoring water quality for wildlife.

Mr. President, I ask unanimous consent that the text of bill and letters of support be printed in the Record.

There being no objection, the material ordered to be printed in the Record, as follows:

S. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Clean and Safe Water Fund Act of 2003."
(3) Congress enacted—
(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to maintain the chemical, physical, and biological integrity of the waters of the United States; and
(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to protect public health by regulating the public drinking water supply of the United States.

(4) because criminal, civil, and administrative penalties assessed under the Acts referred to in paragraph (3) are returned to the Treasury and are not available to protect, preserve, or enhance the quality of water in watersheds in which violations of those Acts occur; and

(5) the establishment of a national clean and safe water fund would help States in achieving the goals described in paragraph (1) by providing funding to protect and improve watersheds and aquifers.

SEC. 3. NATIONAL CLEAN AND SAFE WATER FUND.

Section 302 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) NATIONAL CLEAN AND SAFE WATER FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the "National Clean and Safe Water Fund" (referred to in this subsection as the "Fund") consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—Notwithstanding any other provision of law, for fiscal year 2003 and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the Fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the United States fiscal year from fines, penalties, and other funds collected as a result of enforcement actions brought under this section, the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.), excluding any amounts ordered to be used to carry out projects in accordance with subsection (d).

"(3) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States any amounts in the Fund not needed for current withdrawals.

"(B) ADMINISTRATION.—The obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, the obligations shall be credited to the Fund in accordance with section 9302 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR WATER QUALITY PROJECTS.—

"(A) IN GENERAL.—Amounts in the Fund shall be available to the Administrator, subject to appropriation, to carry out projects the primary purpose of which is water quality maintenance or improvement, including—

"(i) water conservation projects;

"(ii) wetland protection and restoration projects;

"(iii) contaminated sediment projects;

"(iv) drinking water source protection projects;

"(v) projects consisting of best management practices that reduce pollutant loads in an impaired or threatened body of water;

"(vi) decentralized stormwater or wastewater treatment projects, including low-impact development practices;

"(vii) projects consisting of conservation easements or land acquisition for water quality protection projects; and

"(viii) projects consisting of construction or maintenance of stream buffers;

"(B) LIMITATIONS ON USE OF FUNDS.—Amounts in the Fund—

"(i) shall not be used only to carry out projects described in subparagraph (A); and

"(ii) shall not be used by the Administrator to pay the cost of any legal or administrative expense relating to administration of the Fund; and

"(iii) shall be in addition to any amount made available to carry out projects described in subparagraph (A) under any other provision of law.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting among projects eligible for assistance under this subsection, the Administrator shall give priority to a project described in paragraph (4) that is located in a watershed in a State in which there has occurred a violation under this Act or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) for which an enforcement action was brought that resulted in the payment of an amount into the general fund of the Treasury.

"(B) SELECTION CRITERIA.—The Administrator, in consultation with the United States Geological Survey, the Department of Agriculture, and other appropriate Federal agencies, shall establish criteria that maximize water quality improvement in watersheds and aquifers for use in selecting projects to carry out under this subsection.

"(C) COORDINATION WITH STATES.—In selecting a project to carry out under this subsection, the Administrator shall coordinate with the State in which the project is located.

"(D) IMPLEMENTATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator may carry out a project under this subsection making grants to—

"(i) another Federal agency;

"(ii) a State agency;

"(iii) a political subdivision of a State;

"(iv) a publicly-owned treatment works;

"(v) a nonprofit entity;

"(vi) a public water system (as defined in section 12152 of title 28, United States Code); or

"(vii) a nonprofit entity as defined in subsection (h) of section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1369).

"(B) ADMINISTRATION.—(i) The Administrator may enter into an agreement with any public or private entity that is located in a watershed in a State in which there has occurred a violation under this Act or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) (other than a civil penalty that would otherwise be deposited in the Oil Spill Liability Trust Fund under section 915 of the Internal Revenue Code of 1986) to be used to carry out 1 or more projects in accordance with clauses (i) through (iv) of subparagraph (A) and section 301 of this Act.

"(C) CONFORMING AMENDMENT.—Section 505(a) of the Federal Water Pollution Control Act (33 U.S.C. 1365(a)) is amended in the last sentence by inserting before the period at the end the following: "(including ordering the use of a civil penalty for carrying out projects in accordance with section 309)".

ASSOCIATION OF METROPOLITAN WATER AGENCIES,


Hon. Jack Reed,
U.S. Senator,
Washington, D.C.

DEAR SENATOR REED: I write today to express my strong support for the Association of Metropolitan Water Agencies (AMWA) for your National Clean and Safe Water Fund Act of 2003.

AMWA is an association of the nation’s largest publicly owned drinking water systems. AMWA members serve safe drinking water to over 118 million Americans. Funded with fines collected due to violations of the Clean Water Act and the Safe Drinking Water Act, the National Clean and Safe Water Fund could provide much-needed resources to improve the rivers and lakes that serve as sources of drinking water for millions of Americans.

The agricultural runoff from nonpoint source pollution in our nation’s waters. According to the Environmental Protection Agency and the U.S. Geological Survey, agriculture—such as siltation, animal waste, and pesticides and fertilizers—contributes to 59 percent of reported water quality problems in impaired river and streams.

These and other water quality problems in our nation’s sources of drinking water could be reduced with the assistance of federal and state programs. AMWA, AMWA members, and other projects eligible for funding in the National Clean and Safe Water Fund Act of 2003.

Sincerely,

Diane Vande Hei,
Executive Director.

THE NARRAGANSETT BAY COMMISSION,


Hon. Jack Reed,
U.S. Senator, Senate Hart Office Building,
Washington, D.C.

DEAR SENATOR REED: On behalf of the Narragansett Bay Commission, I am writing to express support for the Clean and Safe Water Fund Legislation, as proposed by you and Senators Voinovich and Sarbanes.

According to the Congressional Budget Office, and the Water Infrastructure Network, the nation faces a funding gap as
working with you to see it passed into law.

DEAR SENATOR REED: On behalf of our organizations and the millions of members we represent, we are writing to express our support for your new legislation, the National Clean and Safe Water Act of 2003. Currently, funds from violators of the Clean Water Act and Safe Drinking Water Act go into the general Treasury, and are not specifically targeted for the protection and enhancement of water quality. This legislation would establish a fund whose sole purpose is to advance the restoration of U.S. waters, particularly in the areas in which violations of those acts occur.

This year marks the 30th anniversary of the Clean Water Act. Unfortunately, we remain far behind the goals of the authors of the Act. The Environmental Protection Agency acknowledges that over 40 percent of our nation's waters are currently unfit for fishing and swimming. We need to do a better job of enforcing the laws that are already on the books, as well as adopting new strategies to ensure that penalties from violations of clean water laws are used to restore the impacted watersheds. The National Clean and Safe Water Fund Act of 2003 outlines many projects for which penalties collected from violators of the Clean Water Act and Safe Drinking Water Act would go towards, including drinking water source protection, wetland protection and restoration, and stormwater and wastewater treatment projects.

We appreciate your leadership in introducing this legislation, and look forward to working with you to see it passed into law.

ELLEN ATHAS, Director, Clean Oceans Programs, The Ocean Conservancy.


July 2003.

DEAR SENATOR DASCHLE: Mr. President, the legislation I am introducing today should be important to all Americans—Indians and non-Indians alike. The primary goal of the “Indian Trust Payment Equity Act of 2003” is to start a process for repaying the debt owed by the United States of America to Indian tribes and individual American Indians.

For over one hundred years, the Department of Interior has managed a trust fund containing the proceeds of leasing of oil, gas, land and mineral rights on Indian lands for the benefit of Indian people. Today, far from enjoying a sense of security about the investment of these assets, tribal and individual Indian account holders cannot even know how much balances that the Department of Interior claims are in their accounts. It is estimated that the trust fund may owe anywhere from $10 billion to over $100 billion to Indian tribes and Indian people. This is money that everyone agrees is rightfully theirs and desperately needed to address a host of human needs.

There is little disagreement that the Interior Department’s stewardship of the trust fund, through administrations of both political parties, has been a colossal failure. Rather than just continue the debate over how best to reorganize the Department of Interior, this legislation is intended to jumpstart the process of repayment by establishing an Equity Payment Trust Fund.

The Indian Trust Payment Equity Act calls for appropriating $10 billion to the trust fund five years, as an $10 billion is an undeniably low estimate of what is owed by the United States. If an account holder accepts the results of a certified audit of their account, then the Equity Payment Trust Fund would provide for a partial payment until a full accounting is satisfied. Indian tribes would be able to voluntarily contract with the Secretary to assist in the audit process. This bill provides means for tribes to assist individual allottees to obtain an accounting and a more prompt settlement than any proposal put forward to date.

Tribes entered into by the United States constitute a significant element of the law of the land. Unfortunately, the United States has abridged its treaty obligations by grossly mismanaged the trust fund it holds as trustee for Indian tribes and individuals. A particularly sad story given the high level of human need that exists on Indian reservations throughout South Dakota and across the country.

I look forward to comments, suggestions and feedback from those interested in this issue and hope this bill can serve as a basis for serious discussion. I believe this legislation is of interest and of importance to all Americans and, therefore, all members of Congress, as it addresses a debt and responsibility of the United States. I hope I can count on the support of my Senate colleagues for this effort to address the challenging and complex Indian trust reform issue.

By Mrs. CLINTON (for herself, Mr. ENSIGN, and Mr. BINGAMAN): S. 1543. A bill to improve provisions relating to the workforce investment and adult education systems of the Nation; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON, Mr. President, I rise to announce that today I am introducing The Access to Employment and English Acquisition Act with Senator ENSIGN and Senator BINGAMAN. I am grateful to both Senators for working with me to develop this legislation. I consider them partners in the important effort to expand opportunities for job training for Limited English Proficient individuals. I also want to thank the dedicated individuals at the New York Immigration Coalition, the National Immigration Law Center, the National Council at La Raza and the Immigration Forum for their significant contributions to this proposal.

It is vitally important that our workforce development system be responsive to the needs of those who do not speak English. Immigrants and Limited English Proficient individuals play a crucial role in the New York State and
U.S. economy. Immigrants account for nearly half of the growth in the civilian labor force between 1990 and 2000 and immigrants are projected to account for all of the growth in the prime-age labor force between 2000 and 2020.

Immigrants fill critical jobs, are the backbone of many industries, and are net contributors to the Nation's tax base. Without current and future immigrants in the workforce, our aging society will be short of workers; short of saving and investment to support national economic growth; and short of tax revenues to finance government services and Social Security outlays.

The Health, Education, Labor and Pensions Committee on which I serve, is in the process of reauthorizing the Workforce Investment (WIA). WIA reauthorization provides a valuable opportunity for Congress to improve our Nation's workforce development system to effectively serve immigrants and Limited English Proficient. And I look forward to working with my colleagues on the HELP Committee to incorporate this legislation into the reauthorization bill.

The Access to Employment and English Proficiency Act will reduce barriers to job training for English language learners by creating incentives for training providers to serve these individuals. It will also make programs that integrate job training and language acquisition more accessible. Employers that integrate programs offer a significant return on their investment because they improve productivity, reduce attendance problems, increase job retention rates, and promote overall quality control. Limited English Proficient persons also benefit from integrated training through improved job security, increased job advancement, and a greater ability to participate in society.

There is no question that English proficiency is critical to economic advancement and improved quality of life for LEP workers and their families. Workers who are fluent in oral and written English earn about 24 percent more than those who lack fluency, regardless of their qualifications. These individuals are better able to participate in the civic life of their community, which so many LEP individuals in New York tell me they want to do.

I look forward to continuing the work with Senator ENOS and Senator BINGAMAN to improve job training services for immigrants and LEP individuals.

By Mr. FEINGOLD:

S. 1544. A bill to provide for data-mining programs to Congress; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to offer the Data-Mining Reporting Act of 2003. The untended and continuing information-gathering procedure now known as data-mining is capable of maintaining extensive files containing both public and private records on each and every American. Almost weekly, we learn about a new data-mining program under development like the newly named Terrorism Information Awareness program. Congress should not be learning the details about these programs after millions of dollars are spent testing and refining against unsuspecting Americans.

Coupled with the expanded domestic surveillance already undertaken by this Administration, the unchecked development of data-mining is a dangerous step that threatens one of the most important values that we are fighting for in the war against terrorism—freedom. My bill would require all Federal agencies to report to Congress within 90 days and every year thereafter on data-mining programs used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If it was necessary, information in the various reports would even be classified.

The bill does not end funding for any program, determine the rules for use of the technology or threaten any ongoing investigation that uses data-mining technology. But, with complete information about the current data-mining plans and practices of the Federal Government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data-mining for a program basis and make considered judgments about which programs should go forward and which should not.

My bill would provide Congress with information about the nature of the technology and the data that will be used. The Data-Mining Reporting Act would require all government agencies to assess the efficacy of the data-mining technology and whether the technology can deliver on the promises of enhanced security. In each program, each bill would make sure that the federal agencies using data-mining technology have considered and developed policies to protect the privacy and due process rights of individuals and ensure that only accurate information is collected and used.

Without Congressional review and oversight, government agencies like the Department of Homeland Security, the Department of Justice and the Department of Commerce would be able to collect and analyze a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and every American. Almost weekly, we learn about a new data-mining program under development like the newly named Terrorism Information Awareness program. Congress should not be learning the details about these programs after millions of dollars are spent testing and refining against unsuspecting Americans.

Coupled with the expanded domestic surveillance already undertaken by this Administration, the unchecked development of data-mining is a dangerous step that threatens one of the most important values that we are fighting for in the war against terrorism—freedom. My bill would require all Federal agencies to report to Congress within 90 days and every year thereafter on data-mining programs used to find a pattern indicating terrorist or other criminal activity and how these programs implicate the civil liberties and privacy of all Americans. If it was necessary, information in the various reports would even be classified.

The bill does not end funding for any program, determine the rules for use of the technology or threaten any ongoing investigation that uses data-mining technology. But, with complete information about the current data-mining plans and practices of the Federal Government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data-mining for a program basis and make considered judgments about which programs should go forward and which should not.

My bill would provide Congress with information about the nature of the technology and the data that will be used. The Data-Mining Reporting Act would require all government agencies to assess the efficacy of the data-mining technology and whether the technology can deliver on the promises of enhanced security. In each program, each bill would make sure that the federal agencies using data-mining technology have considered and developed policies to protect the privacy and due process rights of individuals and ensure that only accurate information is collected and used.

Without Congressional review and oversight, government agencies like the Department of Homeland Security, the Department of Justice and the Department of Commerce would be able to collect and analyze a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, communications records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.

Using massive data mining, the government hopes to be able to detect potential terrorists. There is no evidence, however, that data-mining will, in fact, prevent terrorism. Data-mining programs under development are being used to look into the future before being tested to determine if they would have even been able to anticipate past terrorist attacks like September 11 or the Oklahoma City bombing. Before we develop the ability to feed personal information about every man, woman and child into a giant computer, we should learn what data-mining can and can't do and what limits and protections are needed.

One must also consider the potential for errors in data-mining for example, credit agencies that have data about John R. Smith on John D. Smith's tax records, and virtually any information contained in commercial or public databases. Through comprehensive data-mining, everything from people's video rentals or drugstore purchases made with a credit card to their most private health records could be fed into a computerized database reviewed by the Federal Government.
of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA-MINING ACTIVITIES.

(a) REQUIREMENT FOR REPORT.—The head of each agency of the Federal Government that is engaged in any activity to use or develop data-mining technology shall each submit a public report to Congress on all such activities of the department or agency under the jurisdiction of that official.

(b) CONTENT OF REPORT.—A report submitted under subparagraph (a) shall include for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(1) A thorough description of the data-mining technology and the data that will be used.

(2) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(3) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(4) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(5) A list and analysis of the laws and regulations that are in place to allow for individuals to opt out of the use of such technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(6) A thorough discussion of the policies, procedures, and guidelines that are to be developed for the use of such technology in order to—

(A) protect the privacy and due process rights of individuals; and

(B) ensure that only accurate information is collected and used.

(7) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the use of such technology. If no such procedures are in place, a thorough explanation as to why not.

(8) Any necessary classified information in an annex that shall be available to the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

(c) TIME FOR REPORT.—Each report required under subsection (a) shall be—

(1) submitted not later than 90 days after the date of enactment of this Act; and

(2) updated once a year and include any new data-mining technologies.

Mr. HATCH. Mr. President, I rise today to introduce legislation that will help make the American dream a reality for many young people. "The Development, Relief and Education for Alien Minors Act," or "The DREAM Act," is a statutory provision that addresses the problems that plague undocumented immigrants who came to our country as youths. It also removes barriers to education so that they are better equipped to succeed in our society.

Each year, roughly 100,000 young undocumented immigrants graduate from high school in the United States. Most of them came to this country with their parents as small children and have been raised here just like their U.S. citizen classmates. They view themselves as Americans, and are loyal to our country. Some may not even realize that they are here in violation of our immigration laws. They grow up, though, and become hardworking adolescents and young adults, and strive for academic as well as professional excellence.

Many of these youngsters find themselves caught in a catch-22 situation. As illegal immigrants, they cannot work legally. Moreover, they are effectively barred from developing academically beyond high school because of the high cost of pursuing higher education. Private colleges and universities are often expensive, and under current federal law, state institutions cannot grant in-state tuition to illegal immigrants, regardless of how long they have resided in that state. To make matters worse, as illegal immigrants, these young people are ineligible for federal tuition assistance. Moreover, these young people have no independent way of becoming legal residents of the United States.

In short, these children have built their lives here, they have no possibility of achieving and living the American dream. What a tremendous loss to our society.

One young man who is in this predicament literally lives in the State of Utah. His name is Danny Cairo. Danny came to the United States at the age of six with his mother who abandoned him eight years later. Danny had to drop out of school in order to support himself. Fortunately, he met Kevin King, who adopted Danny in 2001. With the help of Mr. King, Danny is presently attending the University of Utah.

This story, however, does not necessarily have a happy ending. Because of the date of the adoption, Danny is unable to derive immigration status from Mr. King. He, therefore, lives in legal limbo and faces the threat of deportation daily. In addition, he may never be able to legally work in the United States.

As Mr. King wrote to me, "Danny is exactly what our country needs more of. He is a natural born leader with charisma and intelligence and a drive that will take him wherever he wants to go. But this will not be possible if Danny is unable to obtain permanent residency."

Mr. King’s warning is one that I cannot ignore. Encouraging people who have lived in this country for 15 years to have to reapply for the status every three years is an absurdity. But the fact of the matter is that canceling the automatic status for those who have qualified for automatic status under the版本 from the last Congress takes away the promise of a new beginning as well as the chance of earning a degree from a college or university.

The DREAM Act will do just that. It provides special young people who immigrated to the United States prior to the age of sixteen, who have lived in this country at least five years, and who are of good moral character a chance to earn their conditional resident status upon acceptance by an institution of higher learning or upon graduation from high school. The DREAM Act allows these special young people to pursue their worthy goals and aspirations.

The bill I am introducing today will extend DREAM Act benefits to a group of people who were excluded from a similar bill negotiated during the 107th Congress. Today’s bill removes the age ceiling so that no one will be arbitrarily cut-off from benefits. Moreover, while the version from the last Congress requires high school graduation as a provision for obtaining legal status, the bill I am introducing today contains a provision that allows high school students who have been accepted into an institution of higher learning, but who have not yet graduated from high school, to obtain conditional resident status. This provision enables these high school students to get an earlier start on procuring the necessary funds for financing their education.

Of course, we have to be mindful that the opportunity provided by the DREAM Act is a privilege and not an entitlement. We must make sure that those who reap the benefits of the Act are, in fact, worthy of the benefits. For this reason, the bill I am introducing today tightens certain requirements and eliminates waivers for those
who have serious criminal records that would qualify them for deportation.

In addition, while I always want to encourage educational advancement, I recognize that not everyone's circumstances allow for full-time attendance at a four-year college. For this reason, the DREAM Act provides for certain alternatives like attending community college, trade school, serving in our armed forces, or performing community service.

The purpose of the DREAM Act is to create incentives for out-of-status youngsters to achieve as much as they can in life and to contribute to the greatness of the United States. I recognize that if the bill's requirements are too high that they simply operate as barriers to legalizing status, the bill defeats its own stated purpose. That is why I am committed to ensuring that the requirements imposed by this bill are reasonable and can be met by youngsters who are willing to work hard. The DREAM Act will enable youngsters who have ambition and motivation to obtain permanent legal status.

During the 107th Congress, I introduced a version of the DREAM Act, S. 1291. Since then, it has been replaced in favor of the Durbin/Hatch/Kennedy/Brownback substitute. The substitute was put on the Senate calendar but did not receive a vote. The House Judiciary Committee debated identical legislation during the last Congress but it was defeated. The House Judiciary Committee has not yet moved similar legislation during the last Congress but it was put on the Senate calendar but did not receive a vote. The House Judiciary Committee debated identical legislation during the last Congress but it was defeated. The House Judiciary Committee has not yet moved similar legislation toward the DREAM Act we introduce in the 108th Congress will not die in the hopper as it did in the House last year.

By introducing this bill, I know I am subjecting myself to criticism from both sides of the aisle on my immigration policy. Some proponents of strict immigration enforcement argue that the DREAM Act will encourage illegal entry into the United States. However, the DREAM Act was carefully drafted to avoid this precise problem. The Act specifically limits eligibility to those who entered the United States five years or more prior to the bill's enactment. It applies to a limited number of people who already reside in the United States and who have demonstrated favorable equities in and significant ties to the United States. Anyone who entered the United States less than five years prior to the bill's enactment is not eligible for legalization under the DREAM Act. The bill would also provide an earned adjustment mechanism by which young people who are long-term U.S. residents may become lawful permanent residents.

Some critics also contained that they will be unable to attend college or who plans to illegally enter the United States in the future will not be covered by the DREAM Act. By introducing this bill, I know I am subjecting myself to criticism from both sides of the aisle on my immigration policy. Some proponents of strict immigration enforcement argue that the DREAM Act will encourage illegal entry into the United States. However, the DREAM Act was carefully drafted to avoid this precise problem. The Act specifically limits eligibility to those who entered the United States five years or more prior to the bill's enactment. It applies to a limited number of people who already reside in the United States and who have demonstrated favorable equities in and significant ties to the United States. Anyone who entered the United States less than five years prior to the bill's enactment is not eligible for legalization under the DREAM Act.

The bill would also provide meaningful relief to many of these students. It would repeal a provision of federal law that makes it prohibitively expensive for states to grant post-secondary benefits, such as in-state tuition rates, to undocumented children. The bill would also provide an earned adjustment mechanism by which young people who are long-term U.S. residents may become lawful permanent residents.

Approving this bill would give access to public education to undocumented young people the opportunity to pursue the American dream. I urge my colleagues to support it.

By Mr. MCCONNELL (for himself and Mr. LIEBERMAN):

S. 1546. A bill to provide small businesses certain protection from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Committee on the Judiciary.

Mr. MCCONNELL. Mr. President, today Senator LIEBERMAN and I introduced the "Small Business Liability Reform Act of 2003," which aims to restore common sense to the way our civil litigation system treats small businesses. Small businesses form the backbone of America's economy. But in our legal system, small businesses are often forced to defend themselves in court for actions they did not commit and pay damages for harms they did not cause. These small businesses often find themselves faced with extraordinarily high punitive damages awards. These unfortunate realities
threaten the very existence of many small businesses, and when American small businesses go under, our economy is harmed as new products are not developed, produced, or sold, and employees cannot retain employees or hire new ones.

Small businesses—those with 25 or fewer full-time employees—employ almost 60 percent of the American workforce. Because the majority of small business owners earn less than $50,000 a year, they often lack the resources to fight unfair lawsuits which could put them out of business. When faced with such a lawsuit, many of these entrepreneurs must either risk a lengthy battle in court, in which they may be subjected to large damage awards, or settle the dispute out of court for a significant amount. Either way, our current system jeopardizes the livelihood and futures of small business owners and their employees.

The Small Business Liability Reform Act of 2003 would remediate these ills with three common-sense solutions, all of which protect our nation’s entrepreneurs from unfair lawsuits and excessive damage awards. First, it would allow for punitive damages to be awarded against a small business only upon clear and convincing evidence, rather than upon a simple preponderance of the evidence, and it would set reasonable limits on the size of punitive damages awards—the lesser of $250,000 or three times compensatory damages.

Second, our bill would restore basic fairness to the law by eliminating joint and several liability for small businesses for non-economic damages, such as pain and suffering, so a small defendant is not forced to pay for harms it did not cause. Under the current joint and several liability rules, if a small business is found liable with other defendants, the small business may be forced to pay a disproportionate amount of the damages if it has “deep pockets” relative to the other responsible parties. For example, a small business that was found responsible for only 10 percent of the harm in a case may have to pay half, two-thirds or even all of the damages. This legislation would prevent this unfair situation, but it would not change a small business’s joint and several liability for economic damages, such as medical expenses and lost wages; because a small business may be responsible for all economic damages, regardless of its degree of fault, plaintiffs will still be able to recover all of their out of pocket costs. By protecting small businesses from having to pay non-economic damages for which they are not responsible, though, the Small Business Liability Reform Act of 2003 partially relieves a potentially unfair situation.

Third, our bill addresses some of the issues facing non-manufacturing product sellers. Currently, a person who has nothing to do with a defective and harmful product other than simply selling it can be sued with the manufacturer. Under the reforms in the Small Business Liability Reform Act of 2003, however, a product seller can only be held liable for harms caused by his own negligence, intentional wrongdoing, or breach of his own warranty.

The bill would provide much-needed protection and relief to small business owners, workers, and consumers. By making our legal system reasonable and fair to small businesses, we will remove one of the greatest barriers to starting and maintaining a small business: the threat of excessive, unfair, and unfair lawsuits. That means increased competition, better and more affordable goods, and more jobs at a time when America could use them all.

The Small Business Liability Reform Act of 2003 is a win for all Americans, and it is my hope that the Senate will pass this bipartisan bill. Finally, I ask unanimous consent that the letter in support of this legislation from the National Federation of Independent Businesses, the National Association of Wholesale-Distributors, the Motorcycle Industry Council, and the Small Business Legal Reform Coalition be printed in the RECORD.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HON. MITCH MCCONNELL, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the over 300 members of the Motorcycle Industry Council (MIC), I want to express our strong support for the “Small Business Liability Reform Act of 2003” and extend sincere thanks for your sponsorship of this important legislation. MIC is a nonprofit national trade association that represents manufacturers and distributors of motorcycle parts and accessories, and members of allied trades. A large number of our member companies are small businesses.

This Act, which would cap punitive damages and abolish joint liability for non-economic damages for businesses with fewer than 25 employees, is a common sense approach to supporting the health of America’s small businesses. It would hold non-manufacturing product sellers liable in product liability cases when their own wrongful conduct is responsible for the harm and thus reduce the exposure of innocent product sellers, lessors and renters to lawsuits when they are simply present in a product’s chain of distribution or solely due to product owner negligence. If the product seller is found not to be at fault, the product seller would be responsible for any remaining punitive damages, ensuring that deserving claimants recover fully for their injuries.
The frequency and high cost of litigation is a matter of great concern to the business community. Few companies have been left unmarked by the steep increases in product liability costs or the crisis in the availability of product liability insurance. The impact on small businesses is especially burdensome, the current civil justice system puts innocent consumers across the country in jeopardy of losing their livelihood, their employees and their future when faced with unfounded lawsuits through no fault of their own. This Act would serve to help protect these businesses from excessive damage awards and the costs of defending against frivolous suits.

Senate reforming predictability to the product liability process, stabilizes product liability insurance rates and reduces the overall costs related to product liability litigation imposed on manufacturers, sellers, and ultimately, consumers. This legislation is an important step in alleviating the devastating effects that the current system can have on small businesses and their millions of employees, which continue to ensure that businesses remain accountable for negligence or wrongdoing and that consumers have full access to the court system for redress.

Again, thank you for your sponsorship of this legislation so important to our small business member companies.

Sincerely,

KATHY R. VAN KLEECK,  
Vice President, Government Relations.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS,  

Hon. MITCH MCCONNELL,  
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the National Association of Wholesaler-Distributors (NAW) to express our strong support for the "Small Business Liability Reform Act of 2003".

For nearly two decades, NAW has vigorously advocated Federal civil justice reform legislation to curb unnecessary lawsuits and the wasteful legal costs they generate. Title I of the bill (Small Business Lawsuit Abuse Protection) which proposes modest restraints in the application of joint liability and punitive damages with regard to small business defendants, takes a major step in that direction.

So, too, does the product seller liability standard proposed in Title II (Product Seller Fair Treatment). Currently in a majority of states, non-manufacturing product sellers such as wholesaler-distributors and retailers may be sued for product-related injuries on the same basis as the product manufacturer. Consequently, product sellers are routinely joined in product liability lawsuits regardless of fault. Despite the fact that product sellers merely resell the product and that the damages awarded to successful claimants, they do have to mount their defense and pay the legal costs attendant to it. This unnecessary litigation drives up costs that must be passed along and absorbed by consumers in the form of higher prices, and serves the interests of no one.

By contrast, non-manufacturing product sellers will be liable for product-related injuries that are caused by their own negligence, intentional misconduct, or misconduct of the entity that provided the product to the consumer. Under this system, the liable manufacturer is unreachable by judicial process, Title II of the bill corrects this serious flaw in our product liability system. It is understood that joint liability is balanced and fair. It appropriately reflects the different roles of manufacturers, wholesaler-distributors and other non-manufacturing product sellers in the chain of production and distribution, promotes product safety by laying responsibility for harm at the door of the party best able to avoid it, and ensures that those who are harmed through no fault of their own by defective, unreasonably dangerous products are fully compensated for their injuries.

Thank you for your leadership in sponsoring this important legislation. I look forward to working with you toward its prompt enactment.

Sincerely,

JAMES A. ANDERSON, Jr.,  
Vice President—Government Relations.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,  

Hon. MITCH MCCONNELL,  
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I would like to express our strong support for the Small Business Liability Reform Act of 2003. NFIB strongly supports this legislation which would serve to reform our civil justice system—one that takes a particularly heavy toll on the smallest of America's businesses.

The frequency and high cost of litigation is a matter of growing concern to small businesses across the country. Today's civil justice system presents a significant incentive to business start-ups and continued operations. If sued, business owners know they have to choose between a long and costly trial or an expensive settlement. Business owners across the nation risk losing their livelihood, their employees and their future every time they are confronted with an unnecessary lawsuit.

This legislation would make two reforms that have topped the small business community's agenda for years: cap punitive damages and abolish joint liability for non-economic damages for those with fewer than 25 employees. These reforms have been among the recommendations of the White House Conference on Small Business since the early 1990s—and the time has come to protect the smallest of small businesses from excessive damage awards and frivolous suits.

This bill would also reform non-manufacturing product sellers liable in product liability cases when their own wrongful conduct is responsible for the harm and thus reprimands the exposure of innocent sellers, lessors and renters to lawsuits when they are simply present in a product's chain of distribution or solely due to product ownership. Should the manufacturer be judgment-proof, the product seller would be responsible for any damage award, ensuring that deserving claimants recover fully for their injuries.

In the end, we believe that enactment of the Small Business Liability Reform Act will inject more fairness into the legal system and reduce unnecessary litigation and legal costs. We also believe that it protects the rights of those with legitimate claims. We thank you for your consideration of these commonsense reforms and look forward to working with you to ensure the success of this important legislation.

Sincerely,

DAN DANNER,  
Senior Vice President,  
Public Policy.

S. 1546  
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Liability Reform Act of 2003."

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 101. Findings.  
Sec. 102. Definitions.  
Sec. 103. Limitation on punitive damages for small businesses.  
Sec. 104. Limitation on joint and several liability for economic loss for small businesses.  
Sec. 105. Exceptions to limitations on liability.  
Sec. 106. Premption and election of State nonapplicability.  

SECTION 2. LIMITATION OF LIABILITY FOR SMALL BUSINESS LIABILITY REFORM ACT OF 2003; SEC. 201. FINDINGS; PURPOSES.

It is hereby declared to be the purpose of this Act—

(1) liability reform for small businesses  
(2) the availability of goods and services in commerce  
(3) a need to restore rationality, certainty, and fairness to the legal system;  
(4) the spiralling costs of litigation and the magnitude and unpredictability of punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years.  
(5) the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legitimate interests of the government in the punishment and deterrence of unlawful conduct;  
(6) just as punitive damage awards can be grossly excessive, so can it be grossly excessive to hold responsible under the doctrine of joint and several liability for damages that party did not cause.

(7) as a result of joint and several liability, entities including small businesses are often brought into litigation despite the fact that their conduct may have little or nothing to do with the accident giving rise to the lawsuit, and may therefore face increased and unjust costs due to the possibility or result of unfair and disproportionate damage awards;  
(8) the costs imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear those costs and to challenge unwarranted lawsuits;  
(9) due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through interstate insurance markets to cover their activities;  
(10) liability reform for small businesses will promote the free flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and
102. DEFINITIONS.
In this title:
(1) CRIME OF VIOLENCE.—The term "crime of violence" has the meaning as in section 16 of title 18, United States Code.
(2) DRUG.—The term "drug" means any controlled substance (as defined in section 102 of title 21, United States Code (42 U.S.C. 802)) that was not legally prescribed for use by the defendant or that was taken by the defendant other than in accordance with the terms of a lawfully issued prescription.
(3) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement service loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.
(4) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property.
(5) HATE CRIME.—The term "hate crime" means a crime described under subsection (b) of the Hate Crime Statistics Act (28 U.S.C. 534 note).
(6) INTERNATIONAL TERRORISM.—The term "international terrorism" has the same meaning as in section 2331 of title 18, United States Code.
(7) NONECONOMIC LOSS.—The term "non-economic loss" means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.
(8) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any government) which has life or interest in or control of property.
(9) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person or entity to punish or deter conduct, or any other conduct engaging in similar behavior in the future. Such term does not include any civil penalties, fines, or treble damages that are assessed or imposed by an agency of State or Federal government pursuant to a State or Federal statute.
(10) SMALL BUSINESS.—(A) IN GENERAL.—The term "small business" means any unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has, on an annual full-time equivalent basis, determined on the date the civil action involving the small business is filed.
(B) CALCULATION OF NUMBER OF EMPLOYEES.—In paragraph (A), the number of employees of a subsidiary of a wholly owned corporation includes the employees of—
(1) a parent corporation; and
(2) any other subsidiary corporation of that parent corporation.
(11) STATE.—The term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.
action is brought through or on behalf of an estate, the term includes the claimant’s decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant’s legal guardian.  

(3) COMMERCIAL LOSS.—The term “commercial loss” means—  
(A) any loss or damage solely to a product itself;  
(B) loss relating to a dispute over the value of a product; or  
(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.  

(4) DAMAGES.—The term “compensatory damages” means damages awarded for economic and noneconomic losses.  

(5) DRA M-SHOP.—The term “dram-shop” means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.  

(6) ECONOMIC LOSS.—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expenses, replacement services, loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.  

(7) HARM.—The term “harm” means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include physical injury, illness, disease, death, or damage to property that is caused by a product.  

(8) MANUFACTURER.—The term “manufacturer” means—  
(A) any person who—  
(i) is engaged in a business to produce, create, make, or construct any product (or component part of a product); and  
(ii) has engaged another person to design or formulate the product (or component part of the product); or  
(B) a product seller, but only with respect to those aspects of a product (or component part of a product) that are created or affected when, before placing the product in the stream of commerce, the product seller—  
(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or  
(ii) has engaged another person to design or formulate the product (or component part of the product) made by another person; or  
(C) any product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.  

(9) NON-ECONOMIC LOSS.—The term “non-economic loss” means loss for physical or emotional pain and suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (including loss of domestic services), injury to reputation, or any other nonpecuniary loss of any kind or nature.  

(10) PERSON.—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).  

(11) PRODUCT.—  
(A) IN GENERAL.—The term “product” means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (including a product that is incidental to the transaction and the operation in which the product is used); and  
(B) select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.  

(14) STATE.—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, commonwealth, territory, or possession.  

SEC. 203. APPLICABILITY; PREEMPTION.  
(a) APPLICABILITY.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.  

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.  

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—  
(1) waive or affect any defense of sovereign immunity asserted by any State under any State law;  
(2) supersede or alter any Federal law;  
(3) waive or affect any defense of sovereign immunity asserted by the United States;  
(4) affect the applicability of any provision of chapter 97 of title 28, United States Code, with respect to claims brought by a foreign nation or a citizen of a foreign nation;  
(5) affect the right of any court to transfer a case to another court or to dismiss a claim of a foreign nation or to a citizen of a foreign nation on the ground of convenience of the forum; or  
(6) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8))).  

SEC. 204. LIABILITY SUBJECT TO EXCLUSION TO PRODUCT SELLERS, RENTERS, AND LESSORS.  
(a) GENERAL RULE.—(1) IN GENERAL.—In any product liability action covered under this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—  
(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;  
(ii) the product seller failed to exercise reasonable care with respect to the product; and  
(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant; or  
(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;  
(ii) the product failed to conform to the warranty; and  
(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or  
(C) any product seller engaged in intentional wrongdoing, as determined under applicable State law; and  
(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraphs (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—  
(A) the failure occurred because there was no reasonable opportunity to inspect the product; or  
(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant’s harm.  

(b) SPECIAL RULE.—(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—  
(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or  
(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.  

STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability
that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already expanded coverage to the majority of uninsured children in their states.

S. 621, the “Children’s Health Equity Act,” did precisely that and the critical language was included in S. 312 by Senators Rockefeller and Chafee, which addressed both expired and expiring CHIP funds and the problem addressed by S. 621. We appreciated their recognition of that issue and supported the passage of that legislation after an extensive set of negotiations and compromises on the language.

For New Mexico, an important issue is that our State expanded coverage up to 185 percent of poverty prior to the enactment of CHIP. Because of this, the children in our State between 100 percent and 185 percent of poverty are ineligible for CHIP. Thus, New Mexico has been allocated $266 million from CHIP between fiscal years 1998 and 2003, to which we have only been able to spend slightly over $26 million as of the end of the last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its Federal CHIP allocations.

It is my contention, after reviewing the materials from our State that our State expanded coverage to 185 percent of poverty and operates a full Medicaid benefit at 185 percent of poverty and therefore should qualify as a State to be “grandfathered.” Unfortunately, the language change made by the Centers for Medicare and Medicaid Services, or CMS, uncertain of our State’s eligibility, as some believe the State has only some up to 185 percent of poverty, or just short of that level, and therefore does not meet the test of “at least” 185 percent of poverty.

For six long years, the States of Washington, New Mexico, Vermont, and others have sought to fix the inequity of the CHIP program whereby certain states that had been more progressive and had expanded coverage to children through Medicaid prior to the enactment of the bill were penalized.

In the last Congress and again this year, I introduced the “Children’s Health Equity Act of 2003” to address this problem for a number of States, including New Mexico, Vermont, Washington, and Tennessee. Our States have been unable to fully access Federal CHIP funds because the previous expansion of Medicaid to children was not recognized or “grandfathered,” while certain other States such as New York, Florida, and Pennsylvania were explicitly “grandfathered” in and their State expansions to children were allowed to be covered with CHIP dollars.

The National Governors’ Association has long recognized this inequity and has, in fact, a policy that read, “The Governors believe that it is critical
184 percent of poverty be approved by the State in conjunction with H.R. 2854. Unfortunately, our bill will then have to be taken up and passed by the House of Representatives and signed into law by the President.

I have received a letter from Chairman Tauzin, and Ranking Member Domenici, of the House Energy and Commerce Committee, ensuring the intent of H.R. 2854 is to include New Mexico and providing their commitment that they will ensure a technical fix in our State with the language will be fixed immediately upon return from the August recess. I thank them for their commitment to New Mexico.

Once again, many States are accessing their CHIP allotments to cover kids at poverty levels far below New Mexico’s current or past eligibility levels. The children in those states are certainly no more worthy and the children of New Mexico deserve better than they are getting from the Federal Government. I accept the commitment made by the leadership of the Senate Finance Committee and the House Energy and Commerce Committee to fix this problem and therefore urge the House to pass both H.R. 2854 and the original legislation that I introduced today.

I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 31, 2003

Senator Jeff Bingaman,

Senior Senator from New Mexico, U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Bingaman and Domenici:

We are writing to provide our commitment to pass a technical corrections bill in September that will provide the proper technical fix that will allow New Mexico to use 20% of their SCHIP allotments to pay for certain Medicaid eligible children.

Prior to House passage of H.R. 2854, CMS had provided technical assistance that indicated that New Mexico would be covered under the language in the bill. The authors of the bill intended that New Mexico would be covered, and drafted the language accordingly, based on the information provided by CMS.

We have subsequently learned that New Mexico may not be able to use the 20% because of potential flaws in the language contained in H.R. 2854. This was not our intent, and we are committing to passing a technical corrections bill in September that will allow New Mexico to use these funds.

Sincerely,

CONGRESSMAN BILLY TAUXIN,
Chairman of the House Committee on Energy & Commerce.

CONGRESSMAN PAUL DINGELL,
Ranking Member of the House Committee on Energy & Commerce.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. FRIST, Mr. DASCHLE, Mr. DOMENICI, Mr. BINGAMAN, Mr. INHOFE, Mr. EFORDS, Mr. THOMAS, Mr. VONOVICH, Mr. CONRAD, Mrs. LINCOLN, Mr. COLEMAN, Mr. DORGAN, Mr. BOND, Mr. HARKIN, Mr. DAYTON, Mr. DURBIN, Mr. TALENT, Mr. NELSON of Nebraska, and Mr. BROWNBACK):

S. 1588 would amend the Omnibus Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes; to the Committee on Finance.

Mr. GRAVELLE, Mr. President, as Members of this Senate are well aware, I have worked for many years on the development of renewable fuels in the marketplace. Twenty-five years ago we created an alcohol fuels tax incentive to promote the use of ethanol.

Today, I am introducing legislation that will simplify the excise tax collection system for all transportation and renewable fuels.

This legislation reforms the alcohol fuels tax credit and creates a new "Volume Ethanol Excise Tax Credit" (VEETC). In addition to streamlining the alcohol fuels tax credit, this legislation creates a new tax credit for biodiesel.

Under the VEETC we accomplish three objectives: First, improve the tax collection system for renewable fuels; second, increase the revenue source for the Highway Trust Fund.

This is because the full amount of user excise taxes levied will be collected and remitted to the Highway Trust Fund (HTF). In simplifying the tax collection system, all user excise taxes levied on both gasoline and ethanol blended fuels will be collected at 18.4 cents per gallon; and all excise taxes levied on diesel and biodiesel blended fuels will be collected at 24.4 cents per gallon.

On average, the proposal would generate more than $2 billion per year in additional revenue, which would improve the ability of the federal government to address the nation’s transportation infrastructure needs; and, third, we will enhance the delivery of renewable fuels in the marketplace.

The federal government’s tax collection system will work in concert with the petroleum industry’s and independent terminal’s fuel delivery system.

The Grassley/Baucus amendment provides tremendous new flexibility to gasoline refiners, marketers, and ethanol producers.

It eliminates the restrictive blend levels, 5 percent, 7.7 percent, and 10 percent dictated by the Tax Code to reflect obsolete Clean Air Act requirements, providing significant flexibility to oil companies to blend as much or as little ethanol or biodiesel to meet their octane or volume needs.

It streamlines the tax collection system to avoid the potential for fraud while accelerating the refund mechanism.

It provides new market opportunities for ethanol and biodiesel in off-road uses, E-85 and ETBE, and, of course, it resolves a longstanding issue with regard to the Highway Trust Fund.

The "Volume Ethanol Excise Tax Credit Act of 2003" is a forward-thinking piece of legislation that deserves support as it addresses a number of tax issues that have created roadblocks for the renewable industry for a number of years.

Specifically, the tax amendment will do the following: eliminate the negative impact of the ethanol tax incentive on the Highway Trust Fund; eliminate the waste, fraud and abuse of the excise tax collection system, which means that 18.4 cents per gallon of each gallon of ethanol-blend fuel will be remitted to the U.S. Treasury; streamline the delivery of renewable fuels to petroleum blenders at the terminal rack because fuel mixtures will not be based on the Clean Air Act requirements of 5.7, 7.7 or 10 percent blends—tax credit is allowed for any blend of ethanol and gasoline; streamline the tax refund system for below the rack blenders to allow a tax refund of 52 cents per gallon on each gallon of ethanol-blended with diesel to be paid within 20 days of blending gasoline with ethanol; eliminate the need of the alcohol fuels income tax credit that is subject to the alternative minimum tax; any taxpayer eligible for the alcohol fuels tax credit will be able to use the volume ethanol excise tax credit system, which means they will also file for a refund for every gallon of ethanol used in the marketplace without regard to the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.

Create a new tax credit for biodiesel—$1.00 per gallon for biodiesel made from virgin oils derived from agricultural products and animal fats; and $.50 per gallon for biodiesel made from agricultural products and animal fats.

Allow the credit to be claimed in both taxable and nontaxable markets; tax exempt fleet and public agency programs; off road diesel markets (diesel).

Streamline the use of biodiesel at the terminal rack—the tax structure and credit will encourage petroleum blenders to blend biodiesel as far upstream as possible, which under the RFS and Minnesota’s 2 percent volume requirement will allow more biodiesel to be used in the marketplace.

Streamline the tax refund system for below the rack blenders to allow a tax refund of the biodiesel tax credit on each gallon of biodiesel blended with diesel, dyed and undyed, to be paid within 20 days of blending.

The alternative minimum tax (AMT) will not be an issue for biodiesel; any taxpayer eligible for the biodiesel tax credit will be able to use the volume biodiesel excise tax credit system, which means they will also be able to file for a refund for every gallon of biodiesel used in the marketplace regardless of the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.
No affect on the Highway Trust Fund—the biodiesel tax credit will be paid for out of the “General fund” not the “Highway Trust Fund.”

Eliminate the E85 AMT issue: any taxpayer eligible for the alcohol fuels tax credit will be able to use the volume ethanol excise tax credit system, which means they will be able to file for a refund for every gallon of ethanol used in the marketplace without regard to the income of the taxpayer or whether the ethanol is used in a taxed fuel or tax exempt fuel.

 Allow the alcohol fuels tax credit to be claimed in both taxable and non-taxable markets;

Streamline the tax refund system for below the rack blenders to allow a tax refund of the alcohol fuels credit on each gallon of ethanol blended with gasoline to be paid within 20 days of blending.

I feel strongly about the legislation because it eliminates the tax infrastructure, and fuel delivery impediments that have been problematic throughout the history of the renewable fuels industry and encourage you to join us in working to enact this legislation into law.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SECTION 1. SHORT TITLE; ETC. (a) SHORT TITLE.—This Act may be cited as the “Renewable Fuel Excise Tax Credit (VEETC) Act of 2003.”

(b) A MENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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 of the Internal Revenue Code of 1986.

SEC. 2. INCENTIVES FOR BIODIESEL. (a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after section 6427(e) the following new section:

"Sect. 6428. Biodiesel used as fuel.

(a) General rule.—For purposes of section 38, the biodiesel fuel credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

(b) Definition of Biodiesel Mixture Credit. (1) In General.—The term "biodiesel mixture" means a mixture of biodiesel and diesel fuel which—

"(i) is sold by the taxpayer producing such mixture for any taxable year;

"(ii) is used as a fuel by the taxpayer producing such mixture; and

"(iii) is used as a fuel by the taxpayer producing such mixture.

(c) Sale or Use Must Be in Trade or Business.—(1) The biodiesel mixture used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurred.

(2) Casual Off-Farm Production Not Eligible.—No credit shall be allowed under this section with respect to any casual off-farm production of qualified biodiesel mixture.

(3) Biodiesel Credit.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents per each gallon of biodiesel which is sold in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business;

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person’s vehicle.

"(B) User Credit Not to Apply to Biodiesel Sold at Retail.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(4) Biodiesel for Agri-Biodiesel.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case of any biodiesel which is sold to an agri-biodiesel producer under section 40B for purposes of this section, paragraph (1)(A) and (2)(A) shall be applied by substituting "$1.00 for ‘50 cents.

(B) Certification for Agri-Biodiesel.—

"(1) Subject to subparagraph (C), the biodiesel mixture credit for purposes of this section is determined in accordance with section 40B(a) and is subject to subparagraph (D).

"(2) The item relating to section 40B relating to the production of agri-biodiesel is annualized to the extent that such agri-biodiesel is sold after December 31, 2005.

"(3) The biodiesel mixture credit in an amount equal to the biodiesel tax credit will be allowed under section 40B(a)(2) in respect to any biodiesel mixture which will be able to use the volume ethanol excise tax credit system.

(C) Sale or Use Must Be in Trade or Business.—(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

(d) Definitions and Special Rules. (1) The term "biodiesel" means monoaoyl esters of long chain fatty acids derived from plant or animal matter for use in diesel-powered engines which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society for Testing and Materials D6751.

(2) AGRI-BIODIESEL.—The term ‘agri-biodiesel’ means biodiesel produced solely from vegetable oils from corn, soy, sunflower, sunflower seeds, corn, soy, and mustard seeds, and from animal fats.

(3) Biodiesel Mixture Not Used as a Fuel, etc.—

"(A) Imposition of Tax.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(i) separates such biodiesel from the mixture, or

"(ii) without separating uses the mixture other than as a fuel, then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of the mixture.

"(B) Applicable Laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 40B and not by this chapter.

(4) Pass-Thru in the Case of Estates and Trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(e) Termination.—This section shall not apply to any fuel sold after December 31, 2005.

(f) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to the current year business credit), as amended by this Act, is amended by adding at the end of the following new paragraph:

"(12) the biodiesel fuels credit determined under section 40B(a).

(g) Conforming Amendments. (1) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of biodiesel fuels credit before effective date. No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year ending on or before the date of the enactment of section 40B.

(2) Section 87, as amended by this Act, is amended—

"(i) by striking “and” at the end of paragraph (1),

"(ii) by striking the period at the end of paragraph (2) and inserting “and”, and

"(iii) by adding at the end the following new paragraph:

"(3) the biodiesel fuels credit determined under section 40B(a), and

"(iv) by striking ‘‘FUEL CREDIT’’ in the heading and inserting ‘‘AND BIODIESEL FUELS CREDITS’’.

(2) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking “fuel credit” and inserting “and biodiesel fuels credits”.

(3) Section 96(c) is amended by striking “and” at the end of paragraph (9), by striking “and inserting “and biodiesel fuels credits”. Glencoe.
applicable amount for each gallon of alcohol used by the taxpayer in producing an alcohol fuel mixture.

(2) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount is $2 per gallon of alcohol fuel mixture.

(a) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is $2 per gallon of alcohol fuel mixture.

(b) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term ‘alcohol fuel mixture’ is a mixture which—

(A) consists of alcohol and a taxable fuel, and

(B) is sold for use as a fuel by the taxpayer producing the mixture.

(4) OTHER DEFINITIONS.—For purposes of this subsection—

(A) ALCOHOL.—The term ‘alcohol’ includes methanol and ethanol but does not include—

(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

(B) TAXABLE FUEL.—The term ‘taxable fuel’ has the meaning given such term by section 4083(a)(1).

(5) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2010.

(c) BIOFUEL MIXTURE CREDIT.—

(I) IN GENERAL.—For purposes of this section, the term ‘biomass-based fuel’ is the product of the applicable amount and the number of gallons of biomass-based fuel used by the taxpayer in producing any qualified biodiesel mixture.

(II) DEFICIENCY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

(B) AMOUNT FOR AGRI-BIODIESEL.—

(i) IN GENERAL.—Subject to clause (ii), in the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

(ii) DEFINITION.—

(A) AGRI-BIODIESEL.—Clause (i) shall apply only if the taxpayer described in paragraph (1) obtains a certification (in such form and manner as prescribed by the Secretary, in the case of the Secretary) from the producer of the agri-biodiesel which identifies the product produced.

(3) DEFINITIONS.—Any term used in this subsection which is also used in section 408 shall have the meaning given such term by section 408.

(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after December 31, 2015.

(d) MIXTURE NOT USED AS A FUEL, ETC.—

(I) IMPOSITION OF TAX.—If—

(A) any credit was determined under this section for a sale or use of a mixture which—

(i) consists of alcohol or biodiesel from the mixture, and

(ii) without separation, uses the mixture other than as a fuel, then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

(3) REGISTRATION REQUIREMENT.—Section 4011(a) (relating to registration) is amended by inserting ‘agri-biodiesel’ in section 408(d)(1)(B) or (C) (as defined in section 4081(c)(2)(B)) after ‘2010’. (4) CONFORMING AMENDMENTS.—

(a) Section 40(c) is amended by striking ‘30 percent’ in section 4081(c) and inserting ‘40 percent’ after ‘2010’.

(b) Section 40(c)(4)(B) is amended by striking ‘or 40 percent’.

(c) Section 40(c)(1) is amended—

(A) by striking ‘2007’ in subparagraph (A) and inserting ‘2010’, and

(B) by striking ‘2005’ in paragraph (2) and inserting ‘2011’.

(5) Section 40(b) is amended—

(A) by striking ‘2007’ in paragraph (1) and inserting ‘2010’, and

(B) by striking ‘2005’, ‘2006, or 2007’ in the table contained in paragraph (2) and inserting ‘through 2010’.

(6) Paragraph (1) of section 4041(b) is amended to read as follows—

(a) In paragraph (1) of such section—

(I) in subparagraph (A), in the case of any qualified biodiesel mixture, the rate of the tax imposed by paragraph (c) shall be the comparable rate under section 4091(c). (II) in subparagraph (B), the rate of the tax imposed by paragraph (c) shall be the comparable rate under section 4091(c).

(7) Section 4041 is amended by striking subsection (c).

(8) Paragraph (2) of section 4041(b) is amended to read as follows:

(3) GASOLINE.—The term ‘gasoline’—

(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)) or a denaturant of alcohol (as defined in section 4626(b)(6)(A)), and

(B) includes, to the extent prescribed in regulations—

(i) any gasoline blend stock, and

(ii) any product commonly used as an additive in gasoline.

For purposes of subparagraph (B)(i), the term ‘gasoline blend stock’ means any petroleum product component of gasoline.

(9) Section 6427 is amended by inserting after subsection (c) the following new subsection:

(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

(2) USE FOR TRADE.—If alcohol (as defined in section 408(d)(1)) or biodiesel (as defined in section 408(d)(1)) or agri-biodiesel (as defined in section 408(d)(2)) which is not in a mixture with a taxable fuel (as defined in section 4083(a)(1))—

(A) is used by any person as a fuel in a trade or business, or

(B) is sold to any person at retail to another person and placed in the fuel tank of such person’s vehicle, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such fuel.

(3) COORDINATION WITH OTHER RETEM USPROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

(4) TERMINATION.—This subsection shall not apply with respect to—

(A) any alcohol fuel mixture (as defined in section 6426(b)(3) (as so defined) sold or used after December 31, 2020, and

(B) any qualified biodiesel mixture (within the meaning of section 6426(c)(1)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2025.

(10) Subsection (f) of section 6427 is amended to read as follows—

(i) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(A) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) 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 excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) DEFINITIONS.—For purposes of paragraphs (1)—

(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

(3) COORDINATION WITH OTHER RETEM USPROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (i).

(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2025.

(11) Paragraphs (1) and (2) of section 6427(d) are amended by inserting ‘(f),’ after ‘(d),’.

(12) Section 6427(d)(3) is amended—

(A) by striking ‘subsection (f)’ both places it appears in paragraph (A) and inserting ‘subsection (e)(3)’.

(B) by striking ‘gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4041(c)(3))’ in subparagraph (A) and inserting ‘a mixture described in section 4626’.

(C) by striking ‘subsection (f)(1)’ in subparagraph (B) and inserting ‘subsection (e)(1)’.

(D) by striking ‘20 days of the date of the filing of such claim’ in subparagraph (B) and inserting ‘45 days of the date of the filing of such claim (20 days in the case of an electronic claim)’.

(E) by striking ‘ALCOHOL MIXTURE’ in the heading and inserting ‘ALCOHOL FUEL AND BIODIESEL MIXTURE’.

(13) Section 6427(b) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph—

(1) any tax is imposed by section 4081 and—

(B) by striking ‘such gasohol’ in paragraph (2) and inserting ‘the alcohol fuel mixture (as defined in section 6426(b)(3))’.

(C) by striking ‘gasohol’ both places it appears in the matter following paragraph (2) and inserting ‘alcohol fuel mixture’.

(D) by striking ‘gasohol’ in the heading and inserting ‘ALCOHOL FUEL MIXTURE’.

(14) Section 9503(b)(1) is amended by adding after paragraph (2) the following new paragraph:

For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be
Both for collective bargaining and corporate financial planning purposes, a new fix needs to be in place this summer.

In a nutshell, the Pension Stability Act, the legislation I am introducing today, does three things: First, it extends the temporary fix for a longer period of time—five years—in order to give Congress time to craft a permanent solution. The five year period is important because business and labor do not always agree on fundamental issues and their unions need time to plan ahead and to make commitments that they can live up to.

Second, the bill temporarily switches from the current Treasury bond as the benchmark rate and adopts for this five-year period a rate based on a high-quality corporate bond index or composite of indices. In shifting to this rate, the legislation assumes that the highest permissible rate of interest is 105 percent of the four-year weighted average of that rate for the first two years—2004 and 2005. For the remaining three years—so as not to permit long term underfunding of pensions—the highest permissible rate of interest drops down to 100 percent of the weighted average.

Third, the legislation incorporates a smooth transition from the out-of-date 30-year Treasury Bond rate to the composite rate that will be used for determining funding obligations. No change in the lump sum distribution rate is made for the first two years. Then, in 20 percent increments, the new rate is phased in. My bill does not take the interest rate to 100 percent of the composite rate, as most commentators assert is the appropriate rate. But my bill makes significant progress toward that goal, and gives Congress time to make informed decisions on this important issue that affects very many lives.

Finally, the Pension Stability Act acknowledges that reasonable people can differ on the best permanent solution to pension issues. The amendment calls for the creation of an independent commission to consider all of the issues relevant to funding of pensions, and making concrete recommendations to Congress. The goal is to take controversy and politics out of the deliberation.

The issues confronting our pension system are too important, and the dollar figures too large, for an internal low interest rate means employers must put more cash in their plans to satisfy full funding requirements. That temporary fix, enacted in March 2002, is set to expire at the end of this year.

If not acted on soon, companies will be required to divert billions of dollars from capital investment and job growth in order to satisfy the arbitrary funding rules. For example, General Motors will have to contribute $7 billion in 2006. No action is to be taken by the end of this year. Companies in businesses across the nation, the total liability adds up to—as the late Carl Sagan used to say—"Billions and Billions."

I urge my colleagues to support this amendment.

By Mr. MCCAIN.

S. 1551. A bill to provide educational opportunities for economically disadvantaged children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. MCCAIN. Mr. President, today, I am pleased to reintroduce legislation to authorize a three-year nationwide school choice demonstration program targeted at children from economically disadvantaged families. The Excellence Through Choice to Elevate Learning Act, or the EXCEL Act, will expand educational opportunities for low-income children by providing parents and students the freedom to choose the best school for their unique academic needs while encouraging schools to be creative and responsive to the needs of all students.

This bill authorizes $1.8 billion annually for fiscal years 2004 through 2007 to be used to provide school choice vouchers to economically disadvantaged children throughout the nation. The funds allocated by the bill will be distributed among states based upon the number of children they have enrolled in public schools. States will then conduct a lottery among low-income children who attend the public schools with the lowest academic performance in their State. Each child selected in the lottery would receive $2,000 per year for three years to be used to pay tuition at any school of their choice in the State, including private or religious schools. The money could also be used to pay for transportation to the school or supplementary educational services to meet the unique needs of the individual student.

In total, this bill authorizes $5.4 billion for the three-year school choice demonstration program, as well as an independent evaluation of the program by the General Accounting Office. The cost of this important test of school vouchers is fully offset by eliminating more than $5.4 billion in unnecessary pork and inequitable corporate tax loopholes.

We all know that one of the most important issues facing our nation is the education of our children. We must strive to develop and implement initiatives which strengthen and improve our education system thereby ensuring that our children are provided with the essential academic tools for succeeding professionally, economically and personally. I am sure we all agree that increasing the academic performance and skills of all our nation's students must be the primary goal of any education reform we implement.

School vouchers are a viable method of allowing all American children access to high quality schools, including private and religious schools. Every parent, not just the wealthy, should be able to choose the best quality education for their children. Tuition vouchers would provide low-income children trapped in poor or mediocre...
schools the same educational choices as children of economic privilege.

Some of my colleagues may argue that vouchers would divert money away from our Nation’s public schools. They will claim it is better to pour more and more money into poor performing public schools, rather than promote competition in our school systems. I respectfully disagree. While I support strengthening financial support for education in our nation, the solution to what ails our system is not money alone.

Currently our nation spends significantly more money on education than most countries and yet our students consistently score lower than their peers. Students in countries which are struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.

It is shameful that we are failing to provide many of our children with adequate quality and equal educational preparation for the real world. The number of college freshmen who require remedial courses in reading, writing and mathematics when they begin their higher education is unacceptably high, and will only get worse for our future economy if the majority of workers are not prepared with the basic skills to engage in a competitive global marketplace.

I concede that school vouchers are not the magic bullet for eradicating all that is wrong with our current educational system, but they are an important opportunity for providing improved academic opportunities for all children, not just the wealthy. Examination of the limited voucher programs scattered around our country reveal high levels of parent and student satisfaction, an increase in parental involvement, and a definite improvement in attendance and discipline at the participating schools. Vouchers encourage struggling economically, socially and politically, such as Russia, outscore U.S. children in critical subjects such as math and physics. Clearly, we must make significant change beyond blindly throwing money into the current system in order to improve our children’s academic performance in order to maintain a viable force in the world economy.
not the school to which the child would be assigned in the absence of a program under this Act; (2) second, if the parents so choose, to obtain services from the school attended by such child, at a cost of not more than $500, from any provider chosen by the parents, that the State determines is capable of providing such services and has an appropriate refund policy; and (3) finally, for educational programs that help the eligible child achieve high levels of academic excellence in the school attended by the eligible child, if the eligible child chooses to attend a public school.

SEC. 9. STATE REQUIREMENT.
A State that receives a grant under this Act shall allow lawfully operating public and private elementary schools and secondary schools, including religious schools, if any, serving the area involved to participate in the program.

SEC. 10. EFFECT OF PROGRAMS.
(a) Title I.—Notwithstanding any other provision of law, if a local educational agency in the State would, in the absence of an educational choice program that is funded under this Act, provide services to a participating eligible child under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), the State shall ensure the provision of such services to such child.
(b) Individuals With Disabilities.—Nothing in this Act shall be construed to affect the requirements of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1401 et seq.).
(c) Aid.—(1) In General.—Scholarships under this Act shall be provided to eligible children born before 1957, not older than 19 for high school, and not older than 21 for postsecondary education, who have been assisted under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)
(2) Financial Assistance.—Notwithstanding any other provision of law, any educational services that receive scholarships funds under this Act shall receive educational services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)
(3) Federal financial aid or assistance to such school or to the provider of supplementary academic services.
(2) Supplementary Academic Services.—(A) In General.—Notwithstanding paragraphs (1), a school or provider of supplemental academic services that receive scholarships funds under this Act shall, as a condition of participation under this Act, comply with the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
(B) Regulations.—The Secretary shall promulgate regulations to implement the provisions of subparagraph (A), taking into account the purposes of this Act and the nature, variety, and missions of schools and services that may participate in providing services to children under this Act.
(d) Other Federal Funds.—No Federal, State, or local agency, in any year, may take into account Federal funds provided to a State or to the parents of any child under this Act in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to a school attended by such child.
(e) Nothing in this Act shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program under this Act.

SEC. 11. EVALUATION.
The Commissioner General of the United States shall conduct an evaluation of the program authorized by this Act. Such evaluation shall, at a minimum—

(1) assess the implementation of educational choice programs assisted under this Act and their effect on participants, schools, and communities in the school districts served, including parental involvement in, and satisfaction with, the program and their children's education;
(2) compare the educational achievement of participating eligible children with the educational achievement of similar non-participating children before, during, and after the program; and
(3) consider the following:
(A) the educational achievement of eligible children who use scholarships to attend schools other than the schools the child would attend in the absence of the program; with
(B) the educational achievement of children who attend the schools the children would attend in the absence of the program.

SEC. 12. ENFORCEMENT.
(a) Regulations.—The Secretary shall promulgate regulations to enforce the provisions of this Act.
(b) Private Cause.—No provision or requirement of this Act shall be enforced through a private cause of action.

SEC. 13. FUNDING.
The Committee on Finance and the Committee on Appropriations of the Senate and the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives shall identify wasteful spending (including loopholes to revenue loss) of the Federal Government as a means of providing funding for the program. Not later than 60 days after the enactment of this Act, the committee committees referred to in the preceding sentence shall report to the Senate and House of Representatives a joint report identifying a means of providing funding for this Act.

SEC. 14. DEFINITIONS.
In this Act:
(1) Charter School.—The term “charter school” has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221).
(2) Elementary School; Local Educational Agency; Parent; Secondary School; State Educational Agency. —The term “elementary school”, “local educational agency”, “parent”, “secondary school”, and “State educational agency” have the meanings given the terms in section 9103 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).
(3) Poverty Line. —The term “poverty line” means the poverty line as defined by the Office of Management and Budget, and revised annually in accordance with section 672(c) of the Community Services Block Grant Act (42 U.S.C. 90023(f)) applicable to a family of the size involved.
(4) Secretary.—The term “Secretary” means the Secretary of Education.
(5) State.—The term “State” means each of the 50 States.

By Mr. CRAIG:
S. 1553. A bill to amend title 18, United States Code, to combat, deter, and punish individuals and enterprises engaged in organized retail theft; to the Committee on the Judiciary.
Mr. CRAIG. Mr. President, today I am introducing legislation to respond to a growing criminal activity that is harming honest businesses, endangering public health, and dragging down our economy.

The problem I am talking about is organized retail theft. Organized retail theft is a quantum leap in criminality beyond petty shoplifting. It involves professional gangs or theft rings that move quickly from one store, frequently cooperative, to community, and across State lines to pilfer large amounts of merchandise that can be easily sold through fencing operations, flea markets, swap meets and pawn shops at a fraction of the cost.

This type of criminal activity is a growing problem throughout the United States, harming many segments of the retail community, including supermarkets, chain drug stores, independent pharmacies, discount stores, large discount operations, mass merchandisers, and specialty shops, among others. Organized retail theft has become the most pressing security problem confronting retailers and their customers. It results in billions of dollars in losses at the retail level annually, according to the Federal Bureau of Investigation’s interstate theft task force.

This kind of theft also presents significant health and safety risks for consumers. While items that are in high demand and prized by these organized gangs include software, videos, DVDs and CDs, razor blades, camera film, and batteries—they also include over-the-counter drug products, such as analgesics, cough and cold medications, and infant formula. Professional theft rings do not provide ideal or required storage conditions for saleable items, and as a result, the integrity and nutrient content of these products is often compromised. Furthermore, when products are near the end of their expiration date, it is not uncommon for unscrupulous middlemen, lot numbers, and labels to falsely extend the shelf-life of the products or to disguise the fact that the merchandise has been stolen.

Clearly, theft of this kind adversely affects both retailers and consumers in a variety of ways. For example, because theft by professional gangs has become so rampant in certain product categories, such as infant formula, many retail stores are taking the products off the shelves and placing them behind the counter or under lock and key. In some cases, products are simply unavailable due to high pilferage rates.

Let me commend the Federal Bureau of Investigation, the Department of Justice for their work on this area. I know the Department has successfully prosecuted a number of cases against professional shoplifting rings. However, retail organizations and individual businesses are crying out for help because this type of criminal activity is escalating, and there is no federal statute that specifically addresses organized retail theft. I believe more can be done to help in the investigation, apprehension, and prosecution of these criminal gangs.

The legislation that I am introducing is in response to the concerns that
have been brought to my attention by the retailing community. I hope my colleagues will join me in this effort. While this bill is not a cure-all, I hope it will help to highlight the magnitude of the problem so that we can begin consideration to take appropriate initiatives with all interested parties, including our federal law enforcement agencies, on how to effectively combat and deter organized retail theft in the future.

I ask unanimous consent that the text of the Organized Retail Theft Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organized Retail Theft Act of 2003.''

SEC. 2. PROHIBITIONS AGAINST ORGANIZED RETAIL THEFT.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2120. Organized retail theft.
"(a) IN GENERAL.—Whoever in any material way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by taking possession of, carrying away, or transferring or causing to be carried away, with intent to steal, any goods offered for retail sale with a total value exceeding $1,000, but not exceeding $5,000, during any 180-day period shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

(i) order the return of the goods seized or impounded under section (a)(ii) to their rightful owners; and

(ii) find that the owner of the goods seized or impounded under subparagraph (A)(ii) aided in the investigation and order the disposal of the good by delivering it to such Federal, State, or local government agencies as, in the opinion of the court, have need for such goods, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such goods, if such disposition would not otherwise be in violation of the law of the manufac-turer consents to such disposition; or

(b) E XCLUSION.

For purposes of paragraph (2), transient or limited vendors shall not in-clude under the term "organized retail theft" any person at a flea market or other vendor who sells, and the violator shall be punished for the offense or, if the violator consents to such disposition; or

(c) RECEIPT AND DISPOSAL.—Whoever receives, possesses, conceals, stores, bar ters, sells, transfers, or1 engages in any other event associated with theft of the goods in violation of 18 U.S.C. to which such person knows or should know to have been acquired or maintained in violation of this subsection.

(d) INJUNCTIONS AND IMPOUNDING.

(1) In general. — The court may:

(2) order the return of any goods seized or impounded under subparagraph (A)(ii) to their rightful owners; and

(3) find that the owner of the goods seized or impounded under subparagraph (A)(ii) aided in the investigation and order the disposal of the good by delivering it to such Federal, State, or local government agencies as, in the opinion of the court, have need for such goods, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such goods, if such disposition would not otherwise be in violation of the law of the manufac-turer consents to such disposition; or

(h) DEFINITION.

As used in this title, the term 'value' has the meaning given that term in section 2311 of this title.

(b) CONFORMING AMENDMENT. — The table of sections for chapter 103 of title 18, United States Code, is amended by inserting at the end the following:

"2120. Organized retail theft.''

SEC. 3. COMMISSION OF ORGANIZED RETAIL THEFT A PREDICATE FOR RICO CLAIM.

Section 1961(1) of title 18, United States Code, is amended by adding ". (c), section 2120 (relating to organized retail theft) before ". (a), section 2120.

SEC. 4. FLEA MARKETS.

(a) PROHIBITIONS. — No person at a flea market shall sell, offer for sale, or knowingly permit the sale of any of the following products:

(i) Baby food, infant formula, or similar products used as a sole or major source of nutrition, manufactured and packaged for sale for consumption primarily by children under 3 years of age.

(ii) Any drug, food for special dietary use, cosmetic, or device, as such terms are de fined in the Federal Food, Drug, and Cos metic Act and regulations issued under that Act.

(c) FLEA MARKET DEFINED.— (1) IN GENERAL. — As used in this section, the term 'flea market' means any physical location, other than a permanent retail store, in which space is provided by the operator of the flea market for individuals to sell goods for resale (whether such goods are purchased or otherwise made available to others for the conduct of business as transient or limited vendors).

(2) EXCLUSION.—For purposes of paragraph (1), persons who sell by sample or catalog for future delivery to the purchaser.
(d) **Criminal Penalties.**—Any person who willfully violates this section shall be punished as provided in section 2120 of title 18, United States Code.

SEC. 5. Attorney General Reporting Requirements.

Beginning with the first year after the date of enactment of this Act, the Attorney General, after consultation with the Central Intelligence Agency, the Department of State, the Department of Defense, and the Department of Health and Human Services, shall submit to the Senate, in support of improving American defenses against the spread of infectious diseases, a report providing:

1. The number of open investigations;
2. The number of cases referred by the United States Customs Service;
3. The number of cases referred by other agencies or sources; and
4. The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under section 2120 of title 18, United States Code.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 208—EXPRESSION OF THE SENSE OF THE SENATE IN SUPPORT OF IMPROVING AMERICAN DEFENSES AGAINST THE SPREAD OF INFECTIOUS DISEASES**

Mr. AKAKA submitted the following resolution, which was referred to the Committee on Health, Education, Labor, and Pensions:

*S. RES. 208*

Whereas the Central Intelligence Agency’s January 2000 National Intelligence Estimate (NIE) states that the Global Infectious Disease Threat and its Implications for the United States, found that infectious diseases are a leading cause of death worldwide and that “New and reemerging infectious diseases will pose a rising global health threat and will complicate U.S. and global security over the next 20 years”;

Whereas the World Health Organization estimates that infectious diseases accounted for more than 11,000,000 deaths in 2001;

Whereas the NIE observed that infectious diseases related deaths within the United States had increased, having doubled to 170,000 since 1990;

Whereas the General Accounting Office noted in an August 2001 report, Global Health: Challenges in Improving Infectious Disease Surveillance Systems, that most of the infectious disease deaths occur in the developing world, but these diseases pose a threat to people in all parts of the world because diseases know no boundaries;

Whereas the NIE noted that the increase in international air travel and trade will “dramatically increase the prospects,” that infectious diseases will “spread quickly around the globe, often in less time than the incubation period of most diseases”;

Whereas, the NIE commented that many infectious diseases, like the West Nile virus, come from outside U.S. borders and are introduced by international travelers, immigrants, returning U.S. military personnel, or imported animals or foodstuffs;

Whereas diseases coming from overseas such as Acquired Immune Deficiency Syndrome (AIDS), Severe Acute Respiratory Syndrome (SARS), and West Nile virus have had or could have a serious impact on the health and welfare of the U.S. population;

Whereas the NIE noted that war, natural disasters, economic collapse, and human complacency around the world are causing a breakdown in health care delivery and helping the emergence or reemergence of infectious diseases;

Whereas, the danger of an outbreak of a deadly disease overseas affecting the United States is increasing;

Whereas the speed and ease of transport of diseases to the United States underscores that Americans are now part of a global public health system;

Whereas the General Accounting Office emphasized that “disease surveillance provides national and international public health authorities with information they need to plan and manage to control these diseases”;

Whereas the early warning of a disease outbreak is key to its identification, the quick application of countermeasures and the development of cures;

Whereas the United States should strengthen its ability to detect foreign diseases before such diseases reach U.S. borders;

Whereas the G-8 group of industrialized countries at the 2003 Evian summit made a commitment to fight against AIDS, tuberculosis, and malaria;

Whereas the NIE noted that effective disease surveillance affecting countries; committed to working closely with the United States; and recognized that the spread of SARS “demonstrates the importance of global collaboration, including global disease surveillance, laboratory, diagnostic and research efforts, and prevention, care, and treatment”;

Whereas the Centers for Disease Control and Prevention (CDC) plays an important role in global surveillance and is a key CDC program to strengthen global disease surveillance is its training of foreign specialists in modern epidemiology through its Field Epidemiology Training Programs (FETPs);

Whereas the CDC’s FETPs have existed for almost 20 years working with ministries of health around the world and the World Health Organization, and that currently FETPs are in 30 countries throughout the world to support disease detection and provide an essential link in global surveillance; and

Whereas the work of the FETPs is critical to building a first line of defense overseas to protect the health of American citizens: Now, therefore, be it

**Resolved, That it is the sense of the Senate that—**

(1) the Centers for Disease Control and Prevention’s Field Epidemiology Training Programs and related epidemic services and global surveillance programs should receive full support;

(2) the President should require an annual National Intelligence Estimate on the global infectious disease threat and its implications for the United States;

(3) the President should propose to the G-8 that the G-8 develop and implement a program to train foreign epidemiological specialists in the developing world; and

(4) the international community should increase funding for the World Health Organization to expand global disease surveillance capability.

Mr. AKAKA. Mr. President, I rise to submit a sense of the Senate resolution that the Senate supports improving American defenses against the spread of infectious diseases.

The United States and other nations have a serious global problem in confronting the natural outbreak or deliberate spread of infectious diseases. The Central Intelligence Agency’s January 2000 National Intelligence Estimate, NIE, The Global Infectious Disease Threat and Its Implications for the United States found that infectious diseases are a leading cause of death worldwide and that “New and reemerging infectious diseases will pose a rising global health threat and will complicate U.S. and global security over the next 20 years.”

I have been concerned about the bioterrorist threat to this country for some time. In 2001, as chairman of the Senate Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, I chaired hearings that addressed the Nation’s preparedness to respond to a bioterrorist attack. Sadly, the SARS outbreak demonstrated that naturally occurring diseases can be spread explosively on airlines and world to support disease detection and provide an essential link in global surveillance.

Whereas the United States is increasing; the disease that originated overseas, such as HIV/AIDS, have had a serious impact on the health and welfare of U.S. population. For example, according to the Center for Disease Control and Prevention, CDC, since the beginning of the HIV/AIDS epidemic, there have been almost 450,000 deaths. There are an estimated 800,000 to 900,000 people currently living with the human immunodeficiency virus infection in the United States with approximately 40,000 new human immunodeficiency virus infections occurring in the U.S. every year.
The danger of an outbreak of a deadly disease overseas affecting the United States is increasing. The NIE found that natural disasters, economic collapse, and human complacency around the world are causing a breakdown in health care delivery and helping the emergence or reemergence of infectious diseases. To be forewarned is to be forearmed. The early warning of a disease outbreak is key to its identification; the quick application of countermeasures; and the development of cures. The General Accounting Office, GAO, noted in its August 2003 report, Global Health: Challenges in Improving Infectious Disease Surveillance Systems, that “disease surveillance provides national and international public health authorities with information they need to plan and manage to control these diseases.”

The next disease to strike the United States, like SARS, may be an unrecognized pathogen. As of July 2003, the SARS virus has sickened more than 8,000 people and killed 790, mostly in southern China. The disease has killed more than 800 since the outbreak began in southern China, and has had severe economic repercussions in the countries beset by the outbreak. Although the disease appears to be under control for the moment, many fear there will be resurgence of SARS in the fall when the general flu and cold season begins.

We have to do a better job next time, and by helping others we will help ourselves to do so. We need to strengthen our ability to detect foreign diseases before they cross our borders. The CDC has played a significant role in foreign disease surveillance for many years. Its Field Epidemiology Training Programs is an important program that strengthens foreign public health surveillance by training foreign specialists in modern epidemiology. FETPs have existed for almost 20 years and involve working with ministries of health around the world and the World Health Organization. Currently FETPs are in 30 countries throughout the world, supporting disease detection efforts and providing an essential link in global surveillance. The work of the FETPs is critical to establishing a first line of defense overseas and protect the health of local populations and of American citizens from the spread of deadly infectious diseases. This work is more timely and necessary than ever. As Dr. James Hughes, Director of the National Center for Infectious Diseases at the CDC told the Governmental Affairs committee's Permanent Subcommittee on Investigations on July 30, the lessons learned from the SARS outbreak show, "The SARS experience reinforces the importance of global surveillance," as well as having prompt reporting and a strong laboratory capability.

We need to ensure that the CDC work in this area, which is at times heroic, is given the funding it requires. We also need to keep this question prominently on our national agenda. We need attention focused on infectious diseases on an annual basis. We need to understand better the political and economic implications of the spread of infectious diseases for foreign countries and the United States, and we need to know that future trends depend on the level of intervention to address this problem. I suggest that a NIE on infectious diseases should be produced each year so that we have a comprehensive analysis of worldwide infectious disease and health developments.

The G-8 group of leading industrialized nations is playing a role on global health issues. At the 2003 Evian Summit, the G-8 made a commitment to fight against the so-called big three diseases of AIDS, tuberculosis, and malaria. But the G-8 recognized the spread of SARS demonstrated “the importance of global collaboration, including strengthening global surveillance.” These words need to be backed by vigorous, coordinated actions. I urge the President to work with the G-8 to create regional FETP programs so that every part of the world can be covered by a strong public health disease surveillance system.

Moreover, we should support the World Health Organization, whose work provides a critical underpinning to the efforts of the global public health community. The World Health Organization’s regular budget has been more or less flat since the mid-1990s in nominal terms, around $420 million a year. In real terms, some estimate this means it has been reduced by 25 percent or more. WHO receives additional extra budgetary funding of several hundred million dollars a year. But most of this is project specific and does not directly support the basic public health activities of WHO and is not a substitute for funding core WHO activities. WHO global surveillance activities have been built with very modest extra budgetary contributions on top of a modest amount of core resources. But WHO’s global disease surveillance work is underfunded and is being conducted in an overall context of declining real WHO core funding.

The rapid and easy transport of diseases to and throughout the United States underscores that Americans are now part of a global public health system. I have been impressed by the commendable effort that the Bill and Melinda Gates Foundation has made to improve health in the developing world. The foundation has spent over $3 billion in just five years on health initiatives. This model should be emulated in the United States. The President should make an effort to invest $1 billion every year for the next five years in global public health initiatives. This investment would not only help to improve health in the developing world, it would also help to prevent the spread of infectious diseases to the United States.

I urge the President to work with the G-8 to improve global health surveillance and to increase funding for global public health initiatives. I urge the President to work with the G-8 to increase funding for global public health initiatives.

Whereas Hiram Powers is one of the preeminent artists in American sculpture; whereas Hiram Powers, a 19th Century American sculptor, one of the noblest examples of portraiture ever created by an American sculptor; whereas the Congress, in recognition of Powers' extraordinary talent, awarded him commissions to execute the statues of John Marshall, Benjamin Franklin, and Thomas Jefferson that stand today in the United States Capitol; whereas Powers preserved through his sculpture the memory of numerous other great Americans, including George Washington, John Quincy Adams, Daniel Webster, John C. Calhoun, Martin Van Buren, and Henry Wadsworth Longfellow; whereas Powers was born in 1805 in Woodstock, Vermont, and happily spent his early years in that town; whereas throughout his life, Powers held sacred the memories of his childhood in Woodstock and drew upon these memories as inspiration for his work, saying, "dreams often take me back to Woodstock and set me down upon the green hillside." whereas the citizens of Woodstock, Vermont, are preparing to celebrate the bicentennial of Hiram Powers' birth with exhibits, symposiums, and other commemorating activities; Now, therefore, be it

Resolved, That the Senate recognizes and honors Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture.

Mr. JEFFORDS. Mr. President, I rise to submit a resolution honoring Hiram Powers, a 19th Century American sculptor. He was born in Woodstock, VT in 1805 and chose a career in sculpture that bolstered the image of the United States in the world of art. I invite all of my colleagues to join me in this effort by cosponsoring this resolution. I realize many people have never heard of Hiram Powers, but we have all seen his work. Just outside the Senate Chamber's doors, stands an 8-foot-tall statue of Benjamin Franklin. Hiram Powers made the statue in 1862. On the House side, stands a similar statue of Thomas Jefferson. Hiram
Powers also made that statue. In the Old Supreme Court Chamber, sits the bust of one of the Supreme Court’s greatest Chief Justices, John Marshall, yes, Hiram Powers made that one too.

In fact, in 1836, when Congress passed a resolution calling for the creation of a marble bust for John Marshall, Congress wanted it to be prepared by “an artist of merit and reputation.” Congress decided that Hiram Powers was that artist.

His work is not limited to the U.S. Capitol. He also created a bust of Andrew Jackson for the White House. This work is widely considered one of the noblest examples of portraiture ever created by an American sculptor.

Perhaps his most well known work is not of a famous historical figure, but a symbol representing the most tragic episode in our country’s history.

In the years prior to the Civil War, Hiram Powers was an outspoken abolitionist. In 1844, he created his first rendition of the “Greek Slave,” a neo-classical statue of a young woman wearing contemporary American manacles. This work can be seen in the Corcoran Gallery of Art in Washington, D.C.

Congress passed a commission for the works he created over 160 years ago. I believe it is now time for Congress to thank Hiram Powers, an artist of merit and reputation, for his work that continues to inspire us to this day, and for generations to come. Mr. President, I encourage all of my colleagues to join me in cosponsoring this resolution that I send to the desk.


Mr. HATCH (for himself, Mr. Kennedy, Mr. Dodd, and Mr. Alexander) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 210

Whereas the quality of workers’ jobs and the supportiveness of their workplaces are key predictors of job productivity, job satisfaction, commitment to employers, and retention;

Whereas there is a clear link between work-family policies and lower absenteeism;

Whereas the more overworked employees feel, the more likely they are to report making mistakes, feel anger and resentment toward employers and coworkers, and look for a new job;

Whereas employees who feel overworked tend to feel less successful in their relationships with their spouses, children, and friends, neglect themselves, feel less healthy, and feel more stress;

Whereas 85 percent of U.S. wage and salaried workers have immediate, day-to-day family responsibilities off the job;

Whereas 46 percent of wage and salaried workers are parents with children under the age of 18 who live with them at least half-time;

Whereas job flexibility allows parents to be more involved in their children’s lives, and parental involvement is associated with children’s higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates;

Whereas a lack of job flexibility for working parents negatively affects children’s health in ways that range from children being unable to make needed doctor’s appointments, to children receiving inadequate early care, leading to more severe and prolonged illness;

Whereas nearly one out of every four Americans—over 45 million Americans—provided or arranged care for a family member or a friend in the past year;

Whereas nearly all working adults are concerned about spending more time with their immediate family; and

Whereas an increasing number of baby boomers reach retirement age in record numbers, more and more Americans are faced with the challenge of caring for older parents: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) reducing the conflict between work and family life should be a national priority; and

(B) the month of October should be designated as “National Work and Family Month”; and

(2) the Senate requests that the President issue a proclamation calling upon the people of the United States to observe “National Work and Family Month” with appropriate ceremonies and activities.

Mr. HATCH. Mr. President, I rise today in support of S. Res. 210, which would proclaim the month of October as “National Work and Family Month.”

In Congress, we talk a lot about the importance of productivity in the workplace. We’ve all heard it many times: When workers are more productive, their wages and their living standards increase. American workers are just about the most productive in the world, and that’s the reason we have the highest standard of living of any large country. But this abstract idea we call productivity doesn’t really capture what makes modern life so much more comfortable than life in the old days. And for most Americans, the days have gotten a lot nicer over the decades, and that includes the time that Americans spend at work.

In my lifetime, the workplace has changed so much that it is unrecognizable. Work in America is a lot less backbreaking than it used to be, it involves a lot more thinking and typing than it used to, it involves a lot more planning and thinking on average and a lot less lifting and hauling and welding and soldering. It involves a balance, a balance between business and personal activities, and between giving and receiving. That’s a great thing. In just about every way imaginable, most Americans work in places that are far more family-friendly than in the past.

Flexible work schedules are becoming much more common. In 1985, just 14 percent of workers were on flexible schedules, but now 28 percent of workers are. Flexible schedules make it easier to balance work and family. And the workweek is getting shorter, too. In 1890, the average workweek was 60 hours; by 1950 it was down to 40, and now it’s down to 35 hours a week for factory workers.

The major reason for these changes is the dramatically improved free-market economy. As any employer can tell you, the competition for workers is usually just as cutthroat as the competition for customers. Very few employers in the U.S. today who put up with 1950s style working conditions, let alone 1890s style work conditions. In most cases, if employers treat their workers wrong for very long, those workers will find something else to do with their time. But in the private sector in every State across this Nation, people quit jobs they hate so they can look for something better. Stacks of business magazines extol the virtues of the worker-friendly, family-friendly workplace. But in too many cases, our Nation’s laws haven’t kept up with changes in the real-world workplace. We have laws that are from an industrial era that have lagged far behind changes in the economy. And more importantly, our laws have lagged behind changes in people’s personal lives. Yes, we’ve made some progress over the years, but there’s still a lot to be done, such as in the areas of early childhood education and elder care, two areas that I have worked on in the past, and where I know we need to do more work in the future.

Today I’d like to focus on one area where we are on the cusp of making a lot more progress, and that is the area of flex-time for America’s workers. Right now, millions of employees in both the public and private sector enjoy flexible work schedules. But our industrial-era laws completely shut millions of hourly wage-earners out of the world of flex-time. Over the last few Congresses, a number of proposals have been offered, by Clinton, by President Bush, and by many members of Congress, to give hourly workers in the private sector the same job flexibility that government workers already enjoy.

Today, right now, federal law decrees that any hourly wage-earner who works more than forty hours per week must be paid overtime at time-and-one-half. But these rules, which I admit sound quite sensible at first, mean that hourly workers in the private sector can’t have the “nine-nines” workweek that so many federal and state government employees take advantage of.

Under the nine-nines workweek, a worker works for twelve-hour shifts for five days, then eight hours on the ninth day, and then the worker can take every other Friday or every other Monday off as a holiday. This adds up to eighty hours over two weeks, but it turns every other weekend into a three-day weekend.

Millions of hourly wage-earners would love to be able to have this kind
of work schedule, but our industrial-age rules make it impossible for companies to do that without paying overtime wages. It's illegal. If we can amend Federal law to change the standard work period from forty hours every week to eighty hours every two weeks, that would be a great help to America's hourly workers. And it would make it easier for millions of workers to take more weekend trips with the kids, to make doctor's appointments without taking time off of work, and to just live a life that is a little bit less hectic. And that's what family-friendly business policies are all about.

Right now, we're seeing a fair amount of controversy over another family-friendly work proposal that goes by the name of comp-time legislation. This is another idea that has been around here for too long, and it's time for it to become law.

Comp-time would allow workers who work overtime a choice: either they could receive overtime pay in the form of time-and-one-half in cash, or they could receive their pay as time-and-a-half in the form of paid time off. Ten hours a week, this week could mean fifteen hours off next week, all of it paid time off. This would be unbelievably valuable for workers who would appreciate some extra time with their families. And despite some of the false claims made about comp time, the law would not unionized workers to negotiate comp-time agreements through their unions, so it would completely respect worker's rights to organize.

As I said earlier, the flex-time and comp-time proposals would provide private sector employees the same opportunities that Federal employees currently have. These proposals would help husbands and wives balance the demands of work and family. This is the kind of legislation that Congress should be enacting to bring our laws into the 21st century. I keep hearing from working parents who struggle to balance the worlds of work and family, and I'm convinced that changing our industrial-era wages and hours laws will give them the flexibility they so desire.

I would like to say a little bit more about what Congress can do in the critical area of elder care. I come from a state with a large proportion of elderly citizens, and I know that this is an issue that weighs heavily on the minds of a lot of working families. Our society often overlooks the importance of caring for elderly parents, but I know how hard it is for a husband or a wife to concentrate on work when they have to be concerned about a frail parent. I've sponsored legislation to help our medical system help our nation's frail elderly. One of the major benefits of this kind of reform is that adult children won't have to resign in order to care for a parent. I hope that Congress can remove some of the legal barriers that stand between the American people and their ability to draw that line where they see fit.

For all of these reasons, I urge my colleagues including Senator KENNEDY and myself to bring attention to the need for a family-friendly work environment. I urge them to cosponsor this resolution. Our industrial-era labor laws and labor regulations are a barrier to a healthy work environment, and they need serious reform. As I said, I've been working on this along with my old friend Senator KENNEDY, and I'm also grateful to have the help of Senator DODD and Senator ALEXANDER. The time has come to see eye to eye on the precise way to help the private sector to build a family-friendly workplace, but I know we agree on the goal: A better life for American families.

Mr. KENNEDY, Mr. President, it is a privilege to join my colleagues, Senators HATCH, ALEXANDER and DODD, in introducing this Senate resolution to declare October National Work-Family Month. The following resolution, which was considered and agreed to:

Resolved, That it is the sense of the Senate that—

(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and

(2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

SENATE RESOLUTION 212—WELCOMING HIS HOLINESS THE FOURTEENTH DALAI LAMA AND RECOGNIZING HIS COMMITMENT TO NON-VIOLENCE, HUMAN RIGHTS, FREEDOM, AND DEMOCRACY

MRS. FEINSTEIN (for herself, Mr. BROWNBACK, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

Resolved, That it is the sense of the Senate that—

(1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and

(2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.
Whereas the Dalai Lama was awarded the Nobel Peace Prize in 1989 in recognition of his efforts to seek a peaceful resolution to the situation in Tibet, and to promote nonviolent methods for resolving conflict;

Whereas the Dalai Lama has personally promoted democratic self-government for Tibetans in exile as a model for securing freedom for all Tibetans, including relinquishing his political positions and turning these authorities over to elected Tibetan representatives;

Whereas the Dalai Lama seeks a solution for Tibet that provides genuine autonomy for Tibetans in exile, and does not call for independence and separation from the People’s Republic of China;

Whereas the envoys of the Dalai Lama have traveled to China and Tibet twice in the past year to begin discussions with Chinese authorities on a permanent negotiated settlement of the Tibet issue;

Whereas the successful advancement of these discussions is in the strong interest of both the Chinese and Tibetan people; and

Whereas it is the policy of the United States to support substantive dialogue between the Government of the People’s Republic of China and the Dalai Lama or his representatives: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the visit of the Dalai Lama to the United States in September 2003 is warmly welcomed;

(2) the Dalai Lama should be recognized and congratulated for his consistent efforts to promote dialogue to peacefully resolve the Tibet issue, and to increase the religious and cultural autonomy of the Tibetan people; and

(3) all parties to the current discussions should be encouraged by the Government of the United States to deepen these contacts in order to achieve the aspirations of the people of Tibet for genuine autonomy and basic human rights.

SENATE RESOLUTION 213—DESIGNATING AUGUST 2003 AS “NATIONAL MISSING ADULT AWARENESS MONTH”

Mrs. LINCOLN (for herself, Mr. KENNEDY, and Mr. EDWARDS) submitted the following resolution; which was considered and agreed to:

Resolved, That the Senate—

(1) designates August 2003, as ‘‘National Missing Adult Awareness Month’’; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

S. RES. 214—CONGRATULATING LANCE ARMSTRONG FOR WINNING THE 2003 TOUR DE FRANCE

Mrs. HUTCHISON (for herself, Mr. CORNYN, Ms. SNOWE, Mr. BROWNBACK, Mr. coaches, Ms. COLLINS, Mr. ENSIGN, Mr. DASCHLE, Mr. NICKLES, Mr. LAUTENBERG, Mr. BIDEN, Mr. INOUYE, Mrs. CLINTON, Mr. ALLARD, Mrs. MURRAY, Mr. DORGAN, Mr. WYDEN, and Mr. PRYOR) submitted the following resolution, which was considered and agreed to:

Resolved, That the Senate—

(1) congratulates Lance Armstrong and the United States Postal Service team on their historic victory in the 2003 Tour de France; and

(2) commends the unwavering commitment to cancer awareness and survivorship demonstrated by Lance Armstrong.

SENATE RESOLUTION 215—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF WAGNER V. UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, ET AL

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 215

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288(a) and 288(a)(1), the Senate may direct its counsel to defend in civil actions Committees of the Senate, and Members of the Senate relating to the Members’ official responsibilities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate Committee on the Judiciary and Senator Orrin G. Hatch in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1436. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1437. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1438. Mr. DAYTON (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1439. Mr. WYDEN (for himself, Mr. BROWNBACK, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1440. Mr. WYDEN (for himself, Mr. SMITH, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1441. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1442. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1443. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

July 31, 2003
SA 1444. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1445. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1446. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1447. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1448. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1449. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1450. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1451. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1452. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1453. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1454. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1458. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1459. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1460. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1461. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1462. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1463. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1464. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1465. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1466. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1467. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1468. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1469. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1470. Ms. CANTWELL (for herself and Mr. Schumer) submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1471. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1473. Ms. SMITH (for himself and Ms. Murkowski) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1474. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1475. Mr. SANTORUM (for himself and Mr. Rockefeller) submitted an amendment intended to be proposed to amendment SA 1424 submitted by Mr. Grassley (for himself, Mr. Baucus, Mr. Domenici, and Mr. Bingham) and intended to be proposed to the bill S. 14, supra; which was ordered to lie on the table.

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1477. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1478. Mr. BINGAMAN (for himself and Ms. Collins) submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1480. Mr. BINGAMAN (for himself, Ms. Collins, Mr. Jeffords, Mr. Dorgan, and Ms. Cantwell) submitted an amendment intended to be proposed to the bill S. 14, supra; which was ordered to lie on the table.

SA 1481. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1482. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1483. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. Frist to the bill S. 14, supra; which was ordered to lie on the table.

SA 1484. Mr. REID (for himself and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1485. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1486. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1487. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1488. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1489. Mr. LAUTENBERG (for himself and Mr. Corzine) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1490. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1491. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1492. Mr. DURBIN (for himself and Ms. Stabenow) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1493. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1494. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1495. Mr. ROCKEFELLER (for himself and Mr. Santorum) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1496. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1497. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1498. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1499. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1500. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1501. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1502. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.
amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1505. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1506. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1507. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1508. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1509. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1510. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1511. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1513. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1514. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1515. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1516. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, supra; which was ordered to lie on the table.

SA 1517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1518. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1519. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1520. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1521. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 864 proposed by Mr. CAMPBELL to the bill S. 14, supra; which was ordered to lie on the table.

SA 1522. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1422 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURkowski, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELson of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1523. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1422 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURkowski, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELson of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1524. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1525. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1526. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1527. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. DOMENICI (for himself, Ms. LANDRIEU, Mr. THOMAS, Ms. MURkowski, Mr. CAMPBELL, Mr. SMITH, Mr. ALEXANDER, Mr. KYL, Mr. NELson of Nebraska, Mr. HAGEL, Mr. TALENT, Mr. BUNNING, and Mr. COLEMAN) to the bill S. 14, supra; which was ordered to lie on the table.

SA 1528. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1529. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1530. Mr. JEFFORDS (for himself, Mr. KERRY, Mr. REID, Mr. DURBIN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1531. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, supra; which was ordered to lie on the table.

SA 1532. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1533. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1534. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1535. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, supra; which was ordered to lie on the table.

SA 1536. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1537. Mr. DURBIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1538. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1539. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1540. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1541. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1542. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1543. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1544. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1545. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1546. Mr. ROCKEFFELLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.
Carbon Dioxide Information and Analysis Center to serve as a resource to researchers and others interested in global climate change and to accommodate data and information requests related to the greenhouse effect and global climate change.

(d) Authorization of Appropriations.—

(1) In General.—There are authorized to be appropriated to carry out this section—

(A) $150,000,000 for fiscal year 2004;

(B) $175,000,000 for fiscal year 2005;

(C) $200,000,000 for fiscal year 2006;

(D) $250,000,000 for fiscal year 2007; and

(E) $266,000,000 for fiscal year 2008.

(2) Availability of Funds.—Amounts made available under paragraph (1) shall remain available until expended.

(3) Limitation on Funds.—Amounts made available under paragraph (1) shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SA 1438. Mr. DAYTON (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle E—Bioenergy Program

SEC. 541. BIOENERGY PROGRAM.

Section 9010 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108) is amended—

(1) in subsection (b)(3), by adding at the end the following:

"(C) BASE BIO DIESEL PRODUCTION GROSS PAYABLE UNITS.—The quantity of base biodiesel production gross payable units under the program for an eligible producer shall be determined by—

"(i) dividing—

"(I) the base production; by

"(II) the biodiesel conversion factor of 1.4; and

"(ii) multiplying the result by—

"(I) in the case of the first year of participation by the eligible producer in the program, 0.3; and

"(II) in the case of the second year of participation by the eligible producer in the program, 0.15; and

"(III) in the case of the third year of participation by the eligible producer in the program, 0.1; and

"(iv) in the case of the fourth and subsequent year of participation by the eligible producer in the program, 0."

(2) in subsection (c)(1), by striking "not more than".

SA 1439. Mr. WYDEN (for himself, Mr. BROWNBACK, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE SOIL AND FOREST CARBON SEQUESTRATION PROGRAM

SEC. 02. FOREST CARBON SEQUESTRATION PROGRAM.

(a) In General.—The Secretary, acting through the Chief of the Forest Service and in collaboration with State foresters, Indian tribe, private entity, or other person or non-Federal organization that owns forest land and is willing to participate in the forest carbon sequestration program, shall establish a forest carbon sequestration program to carry out forest management actions or eligible forest activities on not more than a total of 5,000 acres of forest land holdings to create or maintain a forest carbon reservoir.

(b) Assistance to States.—The Secretary shall provide assistance to States for the purpose of entering into cooperative agreements with willing owners of forest land to carry out eligible forest carbon activities.

(2) Reporting.—As a condition of receiving assistance under paragraph (1), a State shall annually submit to the Secretary a report disclosing the estimated quantity of carbon stored through the cooperative agreement.

(c) Bonneville Power Administration.—Each of the States of Washington, Oregon, and Idaho, and the State of Montana may apply for funding for purposes of this section from the Bonneville Power Administration for purposes of funding a cooperative agreement that meets the fish and wildlife objectives and priorities of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), but only to the extent the cooperative agreement also meets the objectives of this section.

SEC. 03. SOIL CARBON SEQUESTRATION PROGRAM.

(a) Establishment.—

(1) In General.—The Secretary, acting through the Natural Resources Conservation Service and in cooperation with the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), but only to the extent the cooperative agreement also meets the objectives of this section.

(b) Requirements.—A pilot program carried out under this section shall—

(1) involve agricultural producers in—

(A) the development and verification of best management practices for enhanced soil carbon sequestration on agricultural land;

(B) evaluate and establish standardized monitoring and verification methods and protocols.

(2) Criteria.—The Secretary shall select a pilot program based on—

(A) the merit of the proposed program; and

(B) the diversity of soil types, climate zones, crop types, cropping patterns, and sequestration practices available at the site of the proposed program.

(c) Assistance Under Paragraph (1).—There are authorized to be made available under paragraph (1) $266,000,000 for fiscal year 2008.

(b) Inclusions.—The term "forest management action" includes management and use of forest land for the benefit of aesthetics, fish, recreation, economic values, fire, wilder- ness, wildlife, wood products, or other forest values.

(f) Forest Restoration.—

(1) In General.—The term "reforestation" means the reestablishment of forest cover naturally or artificially.

(2) Inclusions.—The term "reforestation" includes planned replanting, reseeding, and natural regeneration.

(g) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(h) Soil Carbon Sequestration Program.—The term "soil carbon sequestration program" means the program established under section 03.

(i) State.—The term "State" includes a political subdivision of a State.

(j) Willing Owner.—The term "willing owner" means a person or governmental organization, including an Indian tribe, private entity, or other person or non-Federal organization that owns forest land and is willing to participate in the forest carbon sequestration program.

SEC. 04. SOIL AND FOREST CARBON SEQUESTRATION PANEL.

(a) Establishment.—The Secretary, acting through the Chief of the Forest Service and the Natural Resources Conservation Service and in collaboration with the Bonneville Power Administration, shall establish a soil and forest carbon sequestration panel to carry out forest management actions or eligible forest activities on not more than a total of 5,000 acres of forest land holdings to create or maintain a forest carbon reservoir.

(b) Assistance to States.—The Secretary shall provide assistance to States for the purpose of entering into cooperative agreements with willing owners of forest land to carry out eligible forest carbon activities.

(2) Reporting.—As a condition of receiving assistance under paragraph (1), a State shall annually submit to the Secretary a report disclosing the estimated quantity of carbon stored through the cooperative agreement.

(c) Bonneville Power Administration.—Each of the States of Washington, Oregon, and Idaho, and the State of Montana may apply for funding for purposes of this section from the Bonneville Power Administration for purposes of funding a cooperative agreement that meets the fish and wildlife objectives and priorities of the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), but only to the extent the cooperative agreement also meets the objectives of this section.
the Administrator of the Energy Information Administration) shall establish a Soil and Forestry Carbon Sequestration Panel for the purposes of:

(1) advising the Secretary and the Secretary of Energy in the development and updating of guidelines for accurate voluntary reporting of greenhouse gas sequestration from forest management actions and agricultural best management practices;

(2) evaluating the potential effectiveness (including cost effectiveness) of the guidelines, verifying carbon inputs and outputs and assessing impacts on other greenhouse gases from various forest management strategies and agricultural best management practices;

(3) estimating the effect of proposed implementation of the guidelines on—
(A) carbon sequestration and storage; and
(B) the net emissions of other greenhouse gases;

(4) providing estimates on the rates of carbon sequestration and net nitrogen and methane impacts for forests and various plants, agricultural commodities, and agricultural practices for the purpose of assisting the Secretary in determining the acceptability of the cooperative agreement offers made by willing owners;

(5) proposing to the Secretary and the Secretary of Energy standardized methods for—
(A) tree carbon sequestered in soils and in forests; and
(B) estimating the impacts of the forest carbon sequestration program and the soil carbon sequestration program on other greenhouse gases; and

(6) assisting the Secretary and the Secretary of Energy in reporting to Congress on the results of the forest carbon sequestration program and the soil carbon sequestration program.

(b) Membership. The Advisory Panel shall be composed of the following members with interest and expertise in soil carbon sequestration and forestry management, appointed jointly by the Secretary and the Secretary of Energy:

(1) 1 member representing national professional forestry organizations.

(2) 1 member representing national agricultural organizations.

(3) 2 members representing environmental or conservation organizations.

(4) 1 member representing Indian tribes.

(5) 2 members representing the academic scientific community.

(6) 2 members representing State forestry organizations.

(7) 2 members representing State agricultural organizations.

(8) 1 member representing the Environmental Protection Agency.

(9) 1 member representing the Department of Agriculture.

(c) Terms.—

(1) In general.—Except as provided in paragraph (2), the term of the Advisory Panel shall be a term of 3 years.

(2) Initial term.—Of the members first appointed to the Advisory Panel—

(A) 1 member appointed under each paragraph (2), (4), (6), and (8) shall serve an initial term of 1 year; and

(B) 1 member appointed under each of paragraphs (1), (3), (5), (7), and (9) shall serve an initial term of 2 years.

(3) Vacancies.—

(A) In general.—A vacancy on the Advisory Panel shall be filled in the manner in which the original appointment was made.

(B) Partial term.—A member appointed to fill a vacancy occurring before the expiration of the term shall be appointed only for the remainder of the term.

(C) Successive terms.—An individual may not be appointed to serve on the Advisory Panel for more than 2 full consecutive terms.

(d) Existing Councils.—The Secretary and the Secretary of Energy may use an existing council to perform the tasks of the Advisory Panel if—

(1) representation on the council, the terms and background of members of the council, and the responsibilities of the council reflect those of the Advisory Panel; and

(2) those responsibilities are a priority for the council.

SEC. 05. STANDARDIZATION OF CARBON SEQUESTRATION MEASUREMENT PROTOCOLS.

(a) Accurate Monitoring, Measurement, and Reporting.—

(1) In general.—The Secretary and the Secretary of Energy, in collaboration with the States, shall—

(A) develop standardized measurement protocols for—
(i) carbon sequestered in soils and trees; and
(ii) impacts on other greenhouse gases;

(B) develop standardized forms to monitor sequestration data generated as a result of the forest carbon sequestration program and the soil carbon sequestration program; and

(C) at least once every 5 years, submit to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources of the Senate and the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives a report on the forest carbon sequestration program and the soil carbon sequestration program.

(2) Contents of report.—A report under paragraph (1) shall describe—

(A) carbon sequestration improvements made as a result of the forest carbon sequestration program and the soil carbon sequestration program;

(B) carbon sequestration practices on land owned by participants in the forest carbon sequestration program and the soil carbon sequestration program; and

(C) the degree of compliance with any cooperative agreements, contracts, or other arrangements entered into under this title.

(b) Educational Outreach.—The Secretary, acting through the Cooperative State Forestry Research, Education, and Extension Service, and in consultation with the Consortium for Agricultural Soils Mitigation of Greenhouse Gases, shall conduct an educational outreach program to collect and disseminate to owners and operators of agricultural and forest land research-based information on agriculture and forest management practices that will increase the sequestration of carbon, without threat to the social and economic well-being of communities.

(c) Public reporting.—Not less than once every 2 years, the Secretary and the Secretary of Energy shall—

(1) convene the Advisory Panel to evaluate the latest scientific and observational information on reporting, monitoring, and verification of carbon storage from forest management and soil sequestration actions; and

(2) issue revised recommendations for reporting, monitoring, and verification of carbon storage from forest management actions and agricultural best management practices as necessary.

SEC. 06. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.
"(C) Subsection (c)(2) shall be applied by substituting ‘7times the individual’s average weekly benefit amount for the benefit year’ for ‘the amount originally established in such week’ (as determined under subsection (b)(1))."

"(D) Section 208(b) shall be applied—

(i) in paragraph (1), as if, including such comparable amounts deposited in such account after such date pursuant to the application of subsection (c) of such section wereinserted before the period at the end;

(ii) as if paragraph (2) had not been enacted; and

(iii) in paragraph (3), by substituting ‘the date beginning on or after the date of enactment of Energy Policy Act of 2003’ for ‘March 31, 2004’.

(2) ELIGIBLE EXHAUSTEE DEFINED.—For purposes of this subsection, the term ‘eligible exhaustee’ means an individual—

(A) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this subsection; and

(B) who exhausted such individual’s rights to such compensation (by reason of the payment of benefits in such individual’s temporary extended unemployment compensation account, including amounts deposited in such account by reason of subsection (b) before the date of enactment of such Act) within 21 weeks after the date of enactment of such subsection; and

(i) an internal combustion or heat engine vehicle;

(ii) a hybrid vehicle;

(iii) an electric motor vehicle.

SEC. 741. DEFINITIONS.

"(C) Subsection (c)(2) of the Temporary Extended Unemployment Compensation Act of 2002, as added by subsection (a) temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ‘TEUC-X amounts’) was in an extended benefit period under section 203(c) of the Act that was made prior to the date of March 31, 2004 as the term was disregarded and the determination under such section, as amended by subsection (a), with respect to eligible exhaustees (as so defined), shall be made as of such date of enactment of such Act, the determination shall be made as of such date of enactment of such Act.

"(B) ELIGIBLE EXHAUSTEES WHO EXHAUSTED TEUC-X AMOUNTS BUT WERE NOT ELIGIBLE FOR TEUC-X AMOUNTS.—In the case of an eligible exhaustee whose temporary extended unemployment account was not augmented under section 203(c) as of the date of enactment of such Act, the determination shall be made at the time that the individual’s account was augmented under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 29), as amended by subsection (a), is exhausted.

SEC. 1442. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, add the following:

SEC. . CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN FACTOR VESSEL HEADS USED BY SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking ‘12/31/2006’ and inserting ‘12/31/2012’.

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"Subtitle D—Advanced Clean Vehicle Demonstration Program"

SEC. 741. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term ‘alternative fueled vehicle’ means a vehicle propelled solely on an alternative fuel as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), except the term does not include any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term ‘fuel cell vehicle’ means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrogen and oxygen fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term ‘hybrid vehicle’ means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy and in which the following are both—

(i) an internal combustion or heat engine using combustible fuel; and

SA 1442. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, add the following:

SEC. . CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN FACTOR VESSEL HEADS USED BY SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking ‘12/31/2006’ and inserting ‘12/31/2012’.

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"Subtitle D—Advanced Clean Vehicle Demonstration Program"

SEC. 741. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term ‘alternative fueled vehicle’ means a vehicle propelled solely on an alternative fuel as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211), except the term does not include any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term ‘fuel cell vehicle’ means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrogen and oxygen fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term ‘hybrid vehicle’ means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy and in which the following are both—

(i) an internal combustion or heat engine using combustible fuel; and
of Federal Regulations; and
defined in section 86.1702
established under section 742.

purposes described in subsection (c).
in paragraphs (1), (2), and (3), acting together

District of Columbia and the Commonwealth
in subsection (c).

The term

The term "ultra-low sulfur diesel vehicle." —The
vehicle manufactured in model year
heavy-duty diesel engine that—
(A) is fueled by diesel fuel which contains
sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—
(i) for vehicles manufactured in—
(1) model years 2002 and 2003, 2.0 grams per
brake horsepower-hour of oxides of nitrogen
and .01 grams per brake horsepower-hour of particulate matter; and
(2) model years 2004 through 2006, 2.5 grams per
brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen
and .01 grams per brake horsepower-hour of particulate matter; or
(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of
ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 742. GRANT PILOT PROGRAM.
(a) REQUIREMENT FOR PROGRAM.—The Sec-
ratary of Energy shall establish a competi-
tive grant pilot program to provide project
grants to eligible recipients to carry out a
project or projects for the purposes described
in subsection (c).

(b) ELIGIBLE RECIPIENTS.—The following
entities are eligible to receive a grant under
the pilot program:
(1) A State government.
(2) The government of a political subdivi-
sion of a State.
(3) Any person other than an individual.

(c) Any combination of entities described
in paragraphs (1), (2), and (3), acting together
to carry out one or more projects for the purposes described in subsection (c).

(3) demonstrate the greatest commitment
after Federal assistance under this subtitle
is completed, and
(4) exceed the minimum requirements of
subsection (e)(1).
(g) PROJECT REQUIREMENTS.—
(1) MAXIMUM AMOUNT.—The Secretary shall
not provide more than $20,000,000 in Federal
assistance under the pilot program for any
project.
(2) COST SHARING.—
(A) FEDERAL SHARE.—The Secretary shall
not provide more than 50 percent of the cost,
incurred during the period of the grant, of
any project under the pilot program.

(B) APPLICANT SHARE.—The applicant or
applicants for a grant for a project under
the pilot program shall provide funding for
the project in an amount that equals or exceeds the higher of the following amounts:
(i) $1,000,000.
(ii) The amount equal to 20 percent of the
total cost of the project.
(3) MAXIMUM PERIOD OF GRANTS.—The Sec-
ratary shall not fund any applicant under
this program for a grant with a period of
more than 3 years.
(4) DEPLOYMENT AND DISTRIBUTION.—The
Secretary shall seek to the maximum extent
practicable to ensure
(A) a broad geographic distribution of
project sites under the pilot program; and
(B) the operation of vehicles acquired with
the proceeds of pilot program grants under a
variety of vehicle operation scenarios, including
exposure to extreme weather conditions and
operation of the vehicles in different
modes of service under a variety of oper-
alional demands.
(5) TRANSFER OF INFORMATION AND
KNOWLEDGE.—The Secretary shall establish mecha-
nisms to ensure that the information and
knowledge gained by participants in the
pilot program are transferred among the
pilot program participants and to other in-
terested parties, including other applicants
that submitted applications.
(h) SCHEDULE.—
(1) PUBLICATION.—Not later than 90 days
after the date of enactment of this Act, the
Secretary shall publish in the Federal
Register, Commerce Business Daily, and
elsewhere as appropriate, a solicitation of
applications for grants for projects under
the pilot program. Applications shall be due
within 180 days after the publication of
the first published notice.
(2) COMPETITIVE SELECTION.—Not later than
180 days after the date by which applications
for grants are due, the Secretary shall select
by competitive, peer review all applications
for projects to be awarded a grant under
the pilot program.
(h) FUNDING FOR ULTRA-LOW SULFUR DIE-
SEL VEHICLES.—Of the total amount avail-
able for a fiscal year, not less than 20 percent
and not more than 25 percent of the grant fund-
ing available for such purposes is used for
acquisition of ultra-low sulfur diesel vehicles.

SEC. 743. AUTHORIZATION OF APPROPRIATIONS.
There is authorized to be appropriated to the
Secretary of Energy for carrying out this
title, $40,000,000 for each of fiscal years
amendment SA 1432 proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 736. GRANTS TO INCREASE PRODUCTION OF ENGINES FOR HEAVY-DUTY CLEAN DIESEL TRUCKS.

(a) GRANTS.—The Secretary of Energy (in this section referred to as the “Secretary”) may award grants to heavy-duty engine manufacturers for the purpose of funding the early production of a higher number of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles than would otherwise be produced.

(b) 2007 EMISSIONS STANDARD-COMPLIANT HEAVY-DUTY VEHICLES.—For the purposes of this section, a 2007 emissions standard-compliant heavy-duty vehicle is a heavy-duty vehicle that is powered by a heavy-duty diesel engine and designed and manufactured to comply with the heavy-duty emission standards of 2007 (as that term is defined in section 734(c)).

(c) FUNDING OF FUNDS.—The Secretary may award a grant to a heavy-duty engine manufacturer under this section only if the manufacturer agrees to use the grant—

(1) to deliver, later than June 30, 2006, new heavy-duty diesel engines for the field testing program; or

(2) to improve infrastructure related to the production of such engines.

(d) APPLICATION.—To seek a grant under this section, a heavy-duty engine manufacturer shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) LIMITATION TO GRANTS.—In the awarding of grants under this section, the following guidelines shall apply:

(1) PURPOSE.—The purpose of the grant program is to accelerate and increase the production of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles.

(2) PROGRESSIVELY DECREASING AMOUNTS OF AWARDS.—

(A) IN GENERAL.—In order to encourage early production of such engines, the Secretary shall administer the grant program so as to provide higher amounts in grants awarded early in the program than the grants that are awarded later in the program.

(B) DELIVERY PERIODS.—The Secretary shall divide the grant program into four successive periods for delivery of 2007 emissions standard-compliant heavy-duty vehicles, as follows:

(i) Period I shall be the period beginning upon commencement of the pilot program and ending on December 31, 2004.

(ii) Period II shall be the period beginning on January 1, 2005, and ending on June 30, 2005.

(iii) Period III shall be the period beginning on July 1, 2005, and ending on December 31, 2005.

(iv) Period IV shall be the period beginning on January 1, 2006, and ending on June 30, 2006.

(C) COMPUTATION OF TOTAL GRANT AMOUNT.—The amount of a grant to a recipient under the pilot program shall be the product of—

(i) an amount determined appropriate by the Secretary for each emissions standard-compliant heavy-duty vehicle that is powered by a heavy-duty diesel engine manufactured by the recipient and delivered to users; and

(ii) the number of such vehicles that are delivered to users.

(D) PER VEHICLE AMOUNT.—The amount for each emissions standard-compliant heavy-duty vehicle shall be significantly higher for a vehicle that is delivered to the user in a period covered in subsection (b) than the amount for such vehicle that is delivered to the user in the next successive period. The amount for each emissions standard-compliant heavy-duty vehicle that is delivered to the user in period IV shall be significantly lower than the amount for such vehicle that is delivered to the user in period I. A vehicle delivered to the user after the end of period IV shall not be counted in the computation under subparagraph (C).

(3) MAXIMUM AMOUNT PER RECIPIENT.—No grant recipient may receive more than 30 percent of the total amount disbursed as grant proceeds under the grant program.

(f) REFUND OF GRANT PROCEEDS.—

(1) IN GENERAL.—The Secretary shall require a grant recipient to refund some or all of the grant proceeds to the Secretary if the recipient—

(i) greater than or equal to the difference between—

(A) the amount that was awarded for the promise to deliver the vehicle during a delivery period under subsection (e)(2)(B); and

(ii) the amount that would have been awarded for the delivery of such vehicle during the period in which it was in fact delivered; and

(B) 30 percent of the amount awarded for the delivery of such vehicle;

(g) AWARD AND REFUND CRITERIA.—

(1) GRANTS TO INCREASE PRODUCTION OF CLEAN DIESEL MOTOR VEHICLES.—The term “clean diesel motor vehicle” means a motor vehicle that—

(A) is powered by a diesel-fueled internal combustion engine; and

(B) meets the tier 2 emission standards.

(2) FUEL CELL VEHICLE.—The term “fuel cell vehicle” means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLES.—The term “hybrid vehicle” means a vehicle that—

(A) has a combination of electric and internal combustion engines; and

(B) is produced onboard by reformation of hydrocarbon fuel to produce energy or is fueled by hydrogen fuel.

(h) PER VEHICLE AMOUNT.—The amount awarded for the delivery of such vehicles shall be the amount awarded for the promise to manufacture a heavy-duty engine for use in a 2007 emissions standard-compliant heavy-duty vehicle for delivery during a delivery period covered in subsection (e)(2)(B) if such vehicle is delivered later than the promised delivery period (in this section referred to as a “late delivery”).

(2) AMOUNT OF REFUND.—The amount of grant proceeds to be refunded to the Secretary under paragraph (1) for a late delivery shall be—

(A) greater than or equal to the difference between—

(i) the amount that was awarded for the promise to deliver the vehicle during a delivery period under subsection (e)(2)(B); and

(ii) the amount that would have been awarded for the delivery of such vehicle during the period in which it was in fact delivered; and

(B) less than or equal to 100 percent of the amount awarded for the delivery of such vehicle.

(i) DISSEMINATION OF INFORMATION.—The Secretary shall—

(1) in consultation with the Administrator, determine whether and how to share information regarding the performance of heavy-duty diesel engines developed and tested under this program, including information concerning durability, maintenance, and fuel economy; and

(2) publish the rationale for such determination in the Federal Register.

(j) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) FIELD TESTING.—The term “field testing” means the testing prior to mass production of 2007 emissions standard-compliant heavy-duty diesel engines in coordination with heavy-duty diesel engine manufacturers.

(3) HEAVY-DUTY DIESEL ENGINE.—The term “heavy-duty diesel engine” means a diesel engine used to power a truck that is operated on public streets, roads, or highways and has a gross vehicle weight rating in excess of 8,500 pounds.

(k) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as may be necessary to carry out the grant program under this section.

SEC. 1446. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1432 as proposed by Mr. Frist to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 736. GRANTS TO INCREASE PRODUCTION OF CLEAN DIESEL, HYBRID VEHICLES, AND FUEL CELL VEHICLES.

(a) GRANTS.—The Secretary of Commerce (in this section referred to as the “Secretary”) may award grants to States and cities for use to assist one or more commercial enterprises in converting existing manufacturing facilities to produce—

(1) clean diesel motor vehicles;

(2) hybrid vehicles;

(3) fuel cell vehicles; or

(4) engines for use in such vehicles.

(b) USE OF FUNDS.—The proceeds of a grant may only be used for the following purposes:

(1) The conversion of manufacturing facilities as described in subsection (a).

(2) The improvement of infrastructure related to any such facility.

(c) APPLICATION.—To seek a grant under this section, a State or city shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(d) DEFINITIONS.—In this section:

(1) CLEAN DIESEL MOTOR VEHICLE.—The term “clean diesel motor vehicle” means a motor vehicle that—

(A) is powered by a diesel-fueled internal combustion engine; and

(B) meets the tier 2 emission standards.

(2) FUEL CELL VEHICLE.—The term “fuel cell vehicle” means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such a fuel cell system may, but is not required to, include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLES.—The term “hybrid vehicle” means a vehicle that—

(A) has a combination of electric and internal combustion engines; and

(B) is produced onboard by reformation of hydrocarbon fuel to produce energy or is fueled by hydrogen fuel.

(f) REFUND OF GRANT PROCEEDS.

(1) IN GENERAL.—The Secretary may award grants to heavy-duty engine manufacturers for the purpose of funding the awarding of grants under this section, a 2007 emissions standard-compliant heavy-duty vehicle that is powered by a heavy-duty diesel engine manufactured by a heavy-duty diesel engine manufacturer, the company of which holds the engine certification issued by the United States for the manufacture of such engine, and, with respect to a heavy-duty diesel engine, the company of which holds the engine certification issued by the United States for the manufacture of such engine.
early production of a higher number of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles than would otherwise be produced.

(b) 2007 EMISSIONS STANDARD-COMPLIANT HEAVY-DUTY VEHICLES.—For the purposes of this section, an emissions standard-compliant heavy-duty vehicle is a heavy-duty vehicle that is powered by a heavy-duty diesel engine and designed and manufactured to comply with the heavy-duty emission standards of 2007 (as that term is defined in section 73A(c)).

(c) USE OF FUNDS.—The Secretary may not award a grant to a heavy-duty engine manufacturer under this section unless the manufacturer agrees to use the grant—

(1) to produce, not later than June 30, 2006, new heavy-duty diesel engines for the field testing program; or

(2) to improve infrastructure related to the production of such engines.

(d) APPLICATION.—To seek a grant under this section, a heavy-duty diesel engine manufacturer shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(e) GUIDELINES FOR AWARDING GRANTS.—In the awarding of grants under this section, the following guidelines shall apply:

(1) PURPOSE.—The purpose of the grant program is to accelerate and increase the production of heavy-duty diesel engines for field testing in 2007 emissions standard-compliant heavy-duty vehicles.

(2) PROGRESSIVELY DECREASING AMOUNTS OF AWARDS.—

(A) IN GENERAL.—In order to encourage early production of such engines, the Secretary shall administer the grant program so as to provide higher amounts in grants awarded early in the program than the grants that are awarded later in the program.

(B) DELIVERY PERIODS.—The Secretary shall divide the grant program into four successive periods for delivery of 2007 emissions standard-compliant heavy-duty vehicles, as follows:

(i) Period I shall be the period beginning upon commencement of the pilot program and ending on December 31, 2004.

(ii) Period II shall be the period beginning on January 1, 2005, and ending on June 30, 2005.

(iii) Period III shall be the period beginning on July 1, 2005, and ending on December 31, 2005.

(iv) Period IV shall be the period beginning on January 1, 2006, and ending on June 30, 2006.

(3) COMPUTATION OF TOTAL GRANT AMOUNT.—The amount of a grant for a recipient under the pilot program shall be the product of—

(i) an amount determined appropriate by the Secretary for each emissions standard-compliant heavy-duty vehicle that is delivered by a heavy-duty diesel engine manufacturer to the recipient and is delivered to users; and

(ii) the number of such vehicles that are delivered to users.

(D) PER VEHICLE AMOUNT.—The amount for each emissions standard-compliant heavy-duty vehicle delivered under the pilot program is entirely based on a vehicle that is delivered to the user in a period defined in subparagraph (B) than the amount for each such vehicle that is delivered to a heavy-duty diesel engine manufacturer to be used in the next successive period. The amount for each emissions standard-compliant heavy-duty vehicle that is delivered to the user in period IV shall be significantly lower than the amount for each such vehicle that is delivered to the user in period I. A vehicle delivered to the user after the end of period IV shall not be counted in the computation under subparagraph (C).

(3) MAXIMUM AMOUNT PER RECIPIENT.—No grant recipient may receive more than 30 percent of the total amount disbursed as grant proceeds under the grant program.

(f) REFUND OF GRANT PROCEEDS.—

(1) IN GENERAL.—The Secretary shall require a grant recipient to refund some or all of the grant proceeds the recipient received for the promise to manufacture a heavy-duty diesel engine for use in a 2007 emissions standard-compliant heavy-duty vehicle, for each vehicle delivered during a delivery period under subsection (e)(2)(B) if such vehicle is delivered later than the promised delivery period in that section referenced in delivery.

(2) AMOUNT OF REFUND.—The amount of grant proceeds refunded to the Secretary under paragraph (1) for a late delivery shall be—

(A) greater than or equal to the difference between—

(i) the amount that was awarded for the delivery of such vehicle during a delivery period under subsection (e)(2)(B); and

(ii) the amount that would have been awarded for the delivery of such vehicle during the period in which it was in fact delivered; and

(B) less than or equal to 100 percent of the amount awarded for the delivery of such vehicle.

(g) AWARD AND REFUND CRITERIA.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator, and publish the criteria for—

(1) awarding grants pursuant to the guidelines in subsection (e); and

(2) calculating the amount of grant proceeds required to be refunded under subsection (f) in connection with late deliveries.

(h) CONSULTATION.—The Secretary shall consult with manufacturers of heavy-duty diesel engines to determine the costs associated with the accelerated and increased production of such engines for field testing purposes.

(i) DISSEMINATION OF INFORMATION.—The Secretary shall—

(1) in consultation with the Administrator and the National Highway Traffic Safety Administration, determine when and how to share information regarding the performance of heavy-duty diesel engines developed and tested under the grant program, including information regarding durability, maintenance, and fuel economy; and

(2) publish the rationale for such determination in the Federal Register.

(j) DEFINITIONS.—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) FIELD TESTING.—The term "field testing" means the testing prior to mass production of 2007 emissions standard-compliant heavy-duty vehicles by fleets in coordination with heavy-duty diesel engine manufacturers.

(3) HEAVY-DUTY DIESEL ENGINE.—The term "heavy-duty diesel engine" means a diesel engine used to power a truck that is operated on public streets, roads, or highways and has a gross vehicle weight rating in excess of 8,500 pounds.

(4) HEAVY-DUTY DIESEL ENGINE MANUFACTURER.—The term "heavy-duty diesel engine manufacturer" means, with respect to a heavy-duty diesel engine, the company of record, as determined by the Secretary, that is the manufacturer that issues the heavy-duty diesel engine certification under the United States for the manufacture of such engine.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the grant program under this section.
(b) Eligible Recipients.—The following entities are eligible to receive a grant under the pilot program:

1. A State government.
2. A local government or a political subdivision of a State.
3. Any person other than an individual.
4. Any combination of entities described in paragraphs (1), (2), and (3), acting together to carry out one or more projects for the purposes described in subsection (c).

(c) Pilot Project Requirements.—Grants under this section may be used for the following purposes:

1. The acquisition of qualified alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles for routine operation in service normal for motor vehicles, including (among other vehicles)—
   - passenger vehicles, including neighborhood electric vehicles; and
   - motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.
2. The acquisition of qualified alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles for regular and routine operation in service normal for motor vehicles, including (among other vehicles):
   - buses used for public transportation or transportation to and from schools;
   - delivery vehicles for goods or services;
   - ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and
   - vehicles used for the collection of recyclable garbage or other garbage.
4. Training necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.
5. Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(d) Qualified Vehicles.—An alternative fueled vehicle, hybrid vehicle, or fuel cell vehicle is qualified for the purposes of subsection (c) if—

1. In the case of a vehicle to which an emission standard applies under law, the emissions resulting from the operation of such vehicle are less than the applicable standard; or
2. In the case of any gasoline-consuming motor vehicle, the fuel economy of such vehicle (as defined in section 32901(a) of title 49, United States Code) exceeds by at least 25 percent the average fuel economy standard applicable to the vehicle under chapter 329 of title 49, United States Code.

(e) Applications.—

1. Requirements.—The Secretary shall prescribe the requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications include, for each project proposed in the application, the following:
   - A description of the project, including how the project meets the requirements of this subtitle.
   - An estimate of the ridership or degree of use of the vehicles in the project.
   - An estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, together with a plan to collect the data and environmental data, related to the project over the expected life of the project.
   - A description of how the project is to be sustainable without Federal assistance after the completion of the term of the grant.
   - A complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project.
   - A description of which costs of the project are to be supported by Federal assistance under this subtitle.
   - In the case of a project involving diesel-fueled vehicles, 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 project, together with a commitment by the applicant to use such fuel in carrying out the project.

2. Applicants.—An applicant under paragraph (1) may carry out any project under the pilot program in partnership with public and private entities.

(f) Selection Criteria.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

1. Propose one or more projects that are most likely—
   - to cost-effectively reduce vehicle operation emissions; and
   - to cost-effectively reduce use of fossil fuel in the operation of vehicles;
2. Propose one or more projects that are—
   - to be carried out or sponsored by a governmental agency referred to in paragraph (1) or (2) of subsection (c); and
   - coordinated with such a government or with a metropolitan planning organization of such a government;
3. Demonstrate the greatest commitment on the part of the applicant or applicants to ensure funding for the proposed project or projects and the greatest likelihood that each project will be maintained or expanded after Federal assistance under this subtitle is completed; and
4. Exceed the minimum requirements of subsection (e)(1).

(g) Pilot Project Requirements.—

1. Maximum Funding.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program for any project.

2. Cost Sharing.—
   - Federal Share.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.
   - Applicant Share.—The applicant or applicants for a grant under the pilot program shall provide funding for the project in an amount that equals or exceeds the higher of the following amounts:
     - $1,000,000.
     - The amount equal to 20 percent of the total cost of the project.

3. Maximum Period of Grants.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

4. Deployment and Distribution.—The Secretary shall seek to the maximum extent practicable to ensure—
   - a broad geographic distribution of project sites under the pilot program; and
   - the operation of vehicles acquired with the proceeds of pilot program grants under a variety of vehicle operating environments, including exposure to extreme weather conditions and use of the vehicles in various modes of service under a variety of operational demands.

5. Transfer of Information and Knowledge.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the Federal government and other interested parties, including other applicants that submitted applications.

(h) Schedule.—

1. Publication.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a commercialized criteria, and elsewhere as appropriate, a solicitation of applications for grants for projects under the pilot program. Applications shall be due not later than 180 days after the date of the publication of the first published notice.

2. Competitive Selection.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select, by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

3. Funding for Ultra-Low Sulfur Diesel Vehicles.—Of the total amount available for a fiscal year for grants under the pilot program, not less than 20 percent and not more than 25 percent of the grant funding shall be available only for the acquisition of ultra-low sulfur diesel vehicles.


There is authorized to be appropriated to the Secretary of Energy for carrying out this section, $40,000,000 for each of fiscal years 2004, 2005, 2006, 2007, and 2008, to remain available until expended.

SA 1448. Mr. LEVIN submitted an amendment intended to be proposed to Amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 2. Modifications to New Qualified Hybrid Motor Vehicle Credit.

(a) Modifications to Light Duty Hybrids.—

1. Increase in Credit Amounts After 2003.—

(A) In General.—Section 320(c)(2), as added by section 201(a), is amended—
   - by striking clause (i) of subparagraph (A) and inserting the following new clause:
     - "(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile, mobile, medium duty passenger vehicle, or light truck and which provides the following percentage of the maximum available power:"
   - by striking clause (ii) of subparagraph (A) and inserting the following new clause:
     - "(ii) In the case of such vehicle placed in service after the date of the enactment of this section and before January 1, 2005, "If percentage of the maximum available power is: The credit amount is:"

   - At least 4 percent but less than 10 percent $250
   - At least 10 percent but less than 20 percent $500
   - At least 20 percent but less than 30 percent $750
   - At least 30 percent $1,000.

   - """If such vehicle is placed in service after December 31, 2004, "If percentage of the maximum available power is: The credit amount is:"

   - At least 4 percent but less than 10 percent $350
   - At least 10 percent but less than 20 percent $600
   - At least 20 percent but less than 30 percent $850
   - At least 30 percent $1,100;"

   - (B) Inserting "$500" in the case of any vehicle placed in service after December 31, 2004;
   - (C) Inserting "$1,000" in the case of any vehicle placed in service after December 31, 2004;"
(iv) by striking "$1,500" in subparagraph (B)(iii) and inserting "$1,500 ($1,600 in the case of any vehicle placed in service after December 31, 2004)"

(v) by striking "$2,000" in subparagraph (B)(iv) and inserting "$2,000 ($2,100 in the case of any vehicle placed in service after December 31, 2004)

(vi) by striking "$2,500" in subparagraph (B)(v) and inserting "$2,500 ($2,600 in the case of any vehicle placed in service after December 31, 2004)

(vii) by striking "$3,000" in subparagraph (B)(vi) and inserting "$3,000 ($3,100 in the case of any vehicle placed in service after December 31, 2004)

(b) Effective date.—The amendments made by this paragraph shall apply to property placed in service after the date of enactment of this Act, in taxable years ending after such date.

(2) Option to use like vehicle.—

(A) In general.—Section 30B(c)(2), as added by section 201(a), is amended—

(i) by inserting at the end of subparagraph (B) the following new clause:

"(iii) option to use like vehicle.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle', and

(ii) by adding at the end of subparagraph (B) the following new clause:

"(iii) OPTION TO USE LIKE VEHICLE.—For purposes of clause (i), at the option of the vehicle manufacturer, the increase for fuel efficiency may be calculated by comparing the new qualified hybrid motor vehicle to a 'like vehicle', and

(iii) by adding at the end of subparagraph (D) the following new clause:

"(ii) transmission (automatic or manual),

(iv) acceleration performance (± 0.05 seconds)

(iv) drivetrain (2-wheel drive or 4-wheel drive)

(v) certification by the Administrator of the Environmental Protection Agency

(B) Effective date.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(b) Hybrid vehicle credit for lifetime fuel savings.—

(1) In general.—Section 30B(c)(2), as added by section 201(a) and amended by this section, is amended—

(i) by striking "and" at the end of subsection (a)(3), and

(ii) by adding after subsection (a)(3) the following new subsection:

"(iv) lifetime fuel savings.

For purposes of subsection (a), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy, the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

(2) Effective date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(c) Change in effective dates.—

(1) In general.—Subsection (h) of section 30B, as added by section 201(a), is amended to read as follows:

"(h) Application of section.—This section shall apply to—

"(i) any new qualified fuel cell motor vehicle (as described in subsection (b) placed in service after December 31, 2004, and purchased before January 1, 2014,

(ii) any new qualified hybrid motor vehicle (as described in subsection (c) placed in service after the date of the enactment of this section, and purchased before January 1, 2014, and

(iii) any other property placed in service after such date of enactment, and purchased before January 1, 2007

(2) Conforming amendment.—Subparagraph (B) of section 30B(b)(3), as added by paragraph (A), is amended to read as follows:

"(B) vehicle

(3) Definitions.—For purposes of this subsection:

"(A) New advanced lean burn technology motor vehicle.—The term 'new advanced lean burn technology motor vehicle' means a motor vehicle with an internal combustion engine

"(i) which is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

(ii) which incorporates direct injection,

(B) LIKE VEHICLE.—The term 'like vehicle' for an advanced lean burn technology motor vehicle derived from a conventional production vehicle produced in the same model year means a model that is equivalent in the following areas:

"(i) body style (2-door or 4-door),

"(ii) transmission (automatic or manual),

"(iii) acceleration performance (± 0.05 seconds)

"(iv) drivetrain (2-wheel drive or 4-wheel drive)

"(v) certification by the Administrator of the Environmental Protection Agency

(B) Effective date.—The amendments made by this paragraph shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(b) Hybrid vehicle credit for lifetime fuel savings.—

(1) In general.—Section 30B(c)(2), as added by section 201(a) and amended by this section, is amended—

(i) by striking "and" at the end of subsection (a)(3), and

(ii) by adding after subsection (a)(3) the following new subsection:

"(iv) lifetime fuel savings.

For purposes of subsection (a), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy, the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.

(2) Effective date.—The amendments made by this subsection shall apply to property placed in service after December 31, 2004, in taxable years ending after such date.

(iv) Lifetime fuel savings.—For purposes of subparagraph (D), the term 'lifetime fuel savings' shall be calculated by dividing 120,000 by the difference between the 2002 model year city fuel economy, the vehicle inertia weight class (as defined in subsection (b)(2)(C)) and the city fuel economy for the new qualified hybrid motor vehicle.
(a) **In General.**—Section 30B(a), as added by section 201(a) and amended by this Act, is amended—

(1) by striking "and" at the end of paragraph (3); and

(2) by striking the period at the end of paragraph (4) and inserting "."

(b) **Clean Heavy-Duty Diesel Motor Vehicle Credit Determined Under Subsection (h).**—

(1) **In General.**—For purposes of subsection (a), the clean heavy-duty diesel motor vehicle credit determined under this subsection with respect to a new clean heavy-duty diesel motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (A) without regard to clause (ii) thereof, to the extent such amount does not exceed the aggregate amount allowed under section 38 for the taxable year and any prior taxable year by reason of any enhanced oil recovery credit determined under section 43 and any other credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subsections (A) through (I) of section 30D; and

(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A) under this paragraph for any prior taxable year.

(2) **Application With Other Credits.**—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

(A) the regular tax for the taxable year reduced by the sum of credits allowable under sections 43 and 30D; and

(B) the tentative minimum tax for the taxable year.

**SEC. 30D. CREDIT FOR PRODUCING CLEAN DIESEL FUEL.**

(a) **Allowance of Credit.**—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

(1) the applicable dollar amount, multiplied by—

(B) the barrel-of-oil equivalent of clean diesel fuel—

(A) sold by the taxpayer to an unrelated person during the taxable year, and

(B) the production of which is attributable to the taxpayer.

(2) the applicable dollar amount for fuel sold during the period beginning on the date which is 90 days after the date of the enactment of this section and ending before January 1, 2007, plus

(3) the applicable dollar amount for fuel sold during the period beginning after May 31, 2006, and ending before January 1, 2007.

(b) **Limitations and Adjustments.**—

(1) **Credit Reduced for Grants, Tax-Exempt Bonds, and Subsidized Energy Financing.**—

(A) **In General.**—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

(i) the numerator of which is the sum, for taxable years beginning after December 31, 2005, in taxable years ending after such date.

(2) APPLICATION OF SECTION.

(3) **Effective Date.**
(A) D O MESTIC.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means the United States or any State or possession of the United States or any territory or possession of the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(B) C E R TAIN CORPORATIONS TREATED AS D O MESTIC.—

(i) in general.—An acquiring corporation shall be treated as a domestic corporation if—

(ii) corporate expatriation transaction.—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction—

(I) such corporation does not have substantially all of the properties held directly or indirectly by a domestic corporation.

(ii) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic corporation by reason of holding stock in the domestic corporation.

(iii) lower stock ownership requirement.—Subclause (I) of clause (ii) shall be applied by substituting ‘50 percent’ for ‘80 percent’ with respect to any nominally foreign corporation if—

(A) the corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

(B) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

(iv) partnership transactions.—The term ‘corporate expatriation transaction’ includes any transaction if—

(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) is a member of an expanded affiliated group, and

(ii) substantially all of the properties held by the acquiring corporation are held by other members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

(v) special rules.—For purposes of this subparagraph—

(I) a series of related transactions shall be treated as 1 transaction, and

(ii) stock of the corporation is considered to be substantially all of the properties held by the acquiring corporation if (but for this subparagraph) it would be treated as a foreign corporation.

(II) expanded affiliated group.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a)) without regard to section 1504(b).

(iii) related foreign partnership.—A foreign partnership and a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or trade name.

(B) D O MESTIC CORPORATION.—For purposes of this section—

(i) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(ii) the term ‘foreign corporation’ means any corporation that is not a domestic corporation.

(iii) the term ‘foreign partnership’ means any partnership which is not a domestic partnership.

(iv) the term ‘domestic partnership’ means any partnership which is a partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or trade name.

(v) the term ‘affiliated group’ means an expanded affiliated group, and

(vi) the term ‘affiliated group’ means any corporation which would (but for this section) be treated as a foreign corporation.

(vii) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(viii) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(ix) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(x) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xi) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xii) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xiii) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xiv) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xv) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.

(xvi) the term ‘domestic corporation’ means any corporation which would (but for this section) be treated as a foreign corporation.
SA 1450. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 972. WESTERN HEMISPHERE ENERGY CO-OPERATION.

(a) DEFINITION OF SECRETARY.—In this section, the term "Secretary" means the Secretary of Energy.

(b) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(c) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(d) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues; and

(3) working with those countries in the development of new policies; and

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2004;

(2) $10,000,000 for fiscal year 2005;

(3) $13,000,000 for fiscal year 2006;

(4) $16,000,000 for fiscal year 2007; and

(5) $19,000,000 for fiscal year 2008.

SA 1451. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 308. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

At the appropriate place, insert the following paragraph (5)(A)(iv), after "capacities" and before the parenthesis:

or 45(c)(13)(A)(III), as the principal fuel.

On page 134, between lines 12 and 13, insert the following at the end of (5)(A)(iv) the following:

(vi) Coordination with Section 38(b)(8)—No credit shall be allowed under section 38(b)(1) (investment credit) because such property qualifies as combined heat and power system property under this paragraph.

SA 1452. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division B add the following:

SEC. 310. EXPANSION OF CREDIT FOR RESIDENTIAL AND COMMERCIAL PROPERTY TO INCLUDE ELECTRIC THERMAL STORAGE UNIT.

(a) In General.—Section 25C(b)(1)(C) (relating to maximum credit), as added by this Act, is amended—

(1) by striking "and" at the end of clause (vi),

(2) by striking the period at the end of clause (vi) and inserting ";", and

(3) by adding at the end the following new clause:

"(vii) $250 for each electric thermal storage unit.

(b) ELECTRIC THERMAL STORAGE UNIT.—Section 25C(d)(6)(B), as added by this Act, is amended—

(1) by striking "and" at the end of clause (vi),

(2) by striking the period at the end of clause (vi) and inserting ";", and

(3) by adding at the end the following new clause:

"(vii) an electric thermal storage unit which converts low-cost, off-peak electricity to heat and stores such heat for later use in specially designated buildings.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures for the taxable year in which the electric thermal storage unit is placed in service after December 31, 2003.

SA 1453. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, beginning on page 7, line 24, strike all through page 8, line 3, and insert the following:

"(D) Wind Facility.—

(A) In General.—In the case of a facility using wind to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2003.

(B) Special Rule.—In the case of electric power produced after 2003 at any facility described in subparagraph (A) which is placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 1454. Mr. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)), as added by this Act, subsection (a)(1) shall be amended by substituting "18 cents" for "15 cents.

On page 14, line 15, insert "(other than sub-

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 310. EXPANSION OF CREDIT FOR RESIDEN-

TITLE —MISCELLANEOUS

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 115. EXTENSION OF DEEPWATER PORT ACT OF 1974 TO NATURAL GAS LIQUIDS, LIQUEFIED PETROLEUM GASES, AND CONDENSATE RECOVERED FROM NATURAL GAS.

On page 13 of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)), as added by this Act, subsection (a)(1) shall be amended by substituting "18 cents" for "15 cents.

On page 14, line 15, insert "(other than sub-

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)), as added by this Act, subsection (a)(1) shall be amended by substituting "18 cents" for "15 cents."
SA 1458. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1102 and insert the following:

SEC. 1102. MARKET-BASED RATES.

(a) APPROVAL OF MARKET-BASED RATES. — Section 206 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(b) MARKET-BASED RATES.—(1) IN GENERAL.—(A) any public utility authority to sell wholesale electric energy at a market-based rate, the Commission shall consider
(b) MARKET-BASED RATES.—(1) IN GENERAL.—In determining whether to grant a public utility authority to sell wholesale electric energy at a market-based rate, the Commission shall consider
"(A) whether the seller and affiliates of the seller have, or have adequately mitigated, market power in the generation and transmission of electric energy;
"(B) whether the sale is made in an effectively competitive market;
"(C) whether market mechanisms function adequately;
"(D) the adequacy of reserve margins; and
"(E) such other matters as the Commission considers to be appropriate and in the public interest.

(2) ANNUAL REVIEW.—

"(A) In general.—For each public utility granted the authority by the Commission to sell wholesale electric energy at a market-based rate, the Commission shall review, at least annually, the characteristics of each market in which the public utility is authorized to sell wholesale electric energy at a market-based rate to determine whether sales by the public utility in that market are subject to effective competition.

"(B) Corrective action. —If, in a review under subparagraph (A), the Commission determines that effective competition does not exist, the Commission shall take appropriate corrective action.

(b) REVIEW OF MARKET-BASED RATES. — Section 206 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(f) MARKET-BASED RULES.—If the Commission, after a hearing on its own motion or on complaint, finds, after affording the public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, or unduly discriminatory or preferential, the Commission shall—

"(1) determine the just and reasonable rate and fix the rate by order in accordance with this section;

"(2) order such other action as will, in the judgment of the Commission, ensure a just and reasonable market-based rate."

SA 1459. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1102 and insert the following:

SEC. 112. MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (as amended by section 1171) is amended by adding at the end the following:

"(e) PROHIBITION ON MARKET MANIPULATION.

"(A) it shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 203(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following:

"(1) or deceptive device or contrivance in violation of a regulation promulgated under section 219."

(c) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of a regulation promulgated under section 219, the Commission shall, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates."

SA 1460. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1102 and insert the following:

SEC. 1102. MARKET-BASED RATES.

(2) the confirmation by the Senate of such a nomination."
or indirectly, in connection with any issue of law or fact with any agency, person, party, or their representatives, except on notice and opportunity for all parties to participate. Members of the commission or administrative law judges assigned to render a decision or to make findings of fact or conclusions of law in a contested case may communicate with employees of the commission who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the commission and its staff in evaluating the evidence.

(b) STANDARDS FOR RECUSAL OF COMMISSIONERS.—A commissioner shall recuse himself or herself from sitting in a proceeding, in which any one or more of the following circumstances exist:

(1) The commissioner in fact lacks impartiality, or the commissioner’s impartiality has been reasonably questioned;

(2) The commissioner, or any relative of the commissioner, is a party or has a financial interest in the subject matter of the issue or in one of the parties, or the commissioner has any other interest that could be substantially affected by the determination of the issue;

(3) The commissioner or a relative of the commissioner has any other interest that could be substantially affected by the determination of the issue; or

(c) MOTIONS FOR DISQUALIFICATION OR RECUSAL.—Any party may move for disqualification or recusal of a commissioner stating with particularity grounds why the commissioner should not sit. Such a motion must be filed prior to the date the commission is scheduled to consider the matter unless the information upon which the motion is based was reasonably foreseeable within a reasonable period of time prior to the commencement of the proceeding, whichever is later. The motion shall be served on all parties by hand delivery, facsimile transmission, or electronic delivery.

(3) Parties may file written responses to the motion within 7 working days from the date of filing the motion. The commission may require that responses be made orally at an open meeting.

(4) The commissioner sought to be disqualified shall issue a decision as to whether he or she agrees that disqualification is appropriate or required before the commission is scheduled to act on the matter for which recusal is sought, or within 15 days after filing of the motion, whichever occurs first.

(5) The parties to a proceeding may waive any ground for recusal or disqualification after an oral hearing on the record, either expressly or by their failure to take action on a timely basis.

(6) Recusal or disqualification of a commissioner results in no effect upon the validity of rulings made or orders issued prior to the time the motion for recusal was filed.

SA 1467. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

SEC. 7. AVIATION EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Administrator of the National Aeronautics and Space Administration, Administrator of the Environmental Protection Agency and, where applicable, the Secretary of Defense, shall establish a cost-shared public-private research partnership to develop and demonstrate the potential of novel technologies, including fuel cell technology, that increase fuel efficiency, reduce emissions and lower costs of operation. Such partnership shall involve the Federal Government, commercial airlines, universities, and aviation manufacturers and equipment suppliers.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $50,000,000 for fiscal year 2004, $70,000,000 for fiscal year 2005, and $100,000,000 for fiscal year 2006.

SA 1468. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

SEC. 1. COST RECOVERY FOR QUALIFIED ENERGY MANAGEMENT DEVICES AND QUALIFIED ENERGY MANAGEMENT SOFTWARE.

(a) QUALIFIED ENERGY MANAGEMENT DEVICE DEFINED AS 3-YEAR PROPERTY.—Section 168(b)(15)(E) of the Internal Revenue Code of 1986 is amended by striking the period at the end of subparagraph (A)(ii), by striking the period at the end of clause (i), by striking the period at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ”and”, and by adding at the end the following new clause:——(iv) qualified energy management device.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting “(A) the term ‘qualified energy management device’ means any energy management device which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services,” after “(A) the term ‘energy management device’ means any meter or metering device which is used by the taxpayer,”.

(c) EXPENDING OF QUALIFIED ENERGY MANAGEMENT SOFTWARE.—Section 167 is amended by redesignating subsection (a) as subsection (b), by striking ”(1)(B) if the depreciation deduction would be allowable (but for this subsection) under subsection (a), and which is unappropriated by the taxpayer,” and inserting ”(2)(B), if the depreciation deduction would be allowable (but for this subsection) under subsection (a), and which is unappropriated by the taxpayer,”.

(d) TREATMENT OF QUALIFIED ENERGY MANAGEMENT SOFTWARE.—For purposes of this subsection, qualified energy management software is considered software under subsection (f)(1)(B) for which a depreciation deduction would be allowable (but for this subsection) under subsection (a), and which is unappropriated by the taxpayer, prior to the time the motion for recusal was filed.

SEC. 2. QUALIFIED ENERGY MANAGEMENT SOFTWARE.—For purposes of this section, qualified energy management software is considered software under subsection (f)(1)(B) for which a depreciation deduction would be allowable (but for this subsection) under subsection (a), and which is unappropriated by the taxpayer, prior to the date the motion for recusal was filed.
CONGRESSIONAL RECORD — SENATE
S10707

July 31, 2003

(3) FUND.—The term ‘Fund’ means the “Savings Through Energy Productivity (STEP) Fund” established by section 4.

(4) IN GENERAL.—The term ‘Secretary’ means the Secretary of Energy.

(5) UTILITY.—The term ‘utility’ means an electric utility (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)) that is subject to regulation by a State commission (as defined in that section).

SBC. IMMEDIATE ELECTRIC ENERGY COST REDUCTION FOR ELIGIBLE CONSUMERS THROUGH ELECTRIC ENERGY CONSUMPTION.

(a) IN GENERAL.—The Secretary shall establish and conduct in the United States an energy productivity project to equal the cost of energy productivity projects to equal the cost of

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.

(b) LOAN PROGRAM.
may not, however, reduce the average fuel economy standards applicable to replacement tires.

(6) Nothing in this chapter shall be construed to conflict with or override the provisions of State law relating to higher fuel economy standards applicable to replacement tires designed for use on passenger cars and light trucks.

Nothing in this chapter shall apply to—

(1) a tire or group of tires with the same S.E.V. and rim size for which the volume of tires produced or imported is less than 15,000 annually;

(2) a tire that meets the standard for winter tire performance under the Motor Vehicle Safety Act of 1978 (16 U.S.C. 2621(d)) as amended by adding at the end the following:

(3) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

In this subsection, the term ‘fuel economy’, with respect to tires, means the extent to which the tires contribute to the fuel economy of the motor vehicle on which the tires are mounted.

(b) Special Rules for Net Metering.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

(1) NET METERING.

(b) Definitions.—In this subsection:

(A) Eligible On-site Generating Facility.—The term ‘eligible on-site generating facility’ means—

(i) a facility on the site of a residential electric consumer with a maximum generating capacity of not more than 10 kilowatts that is fueled by solar energy, wind energy, or fuel cells; and

(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 1000 kilowatts or less that is fueled solely by a renewable energy resource, source, or operator of the on-site generating facility shall measure the quantity of electric energy supplied by the on-site generating facility and deliver to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the billing period with excess kilowatt-hours generated during the billing period with—

(A) 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 (3); and

(B) the owner or operator of the on-site generating facility shall be credited for the energy available to the electric consumer during the billing period with

(ii) in this subsection, the term ‘high efficiency system’ means a system that is comprised of—

(i) fuel cells; or

(ii) combined heat and power.

(C) Net Metering Service.—The term ‘net metering service’ means service to an electric consumer, as provided in section 111(d)(11), under which electric energy generated by that electric consumer from an eligible on-site generator is credited to the balance meter and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the billing period with —

(D) Renewable Energy Resource.—The term ‘renewable energy resource’ means—

(i) solar, wind, biomass, micro-freeflow-hydro, or geothermal energy;

(2) Net Metering Service.—For the purposes of undertaking the consideration and making the determination with respect to the standard concerning net metering established by section 111(d)(11), the term ‘net metering service’ means a service provided in accordance with this subsection.

(3) Charges by an Electric Utility.—An electric utility—

(A) shall charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other requirement recovery charges imposed by a State regulatory authority may consider and make a determination concerning whether it is in the public interest to reduce or to impose subparagraph (A) in the State.

(2) Incentives.—Nothing in this paragraph precludes a State from establishing incentives to encourage on-site generating facilities and net metering in addition to the requirements under subsection (b) and (c) of section 112, not later than 1 year after the date of enactment of this paragraph, a State regulatory authority may consider and make a determination concerning whether it is in the public interest to reduce or to impose subparagraph (A) in the State.

(D) Compliance with Standards.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable environmental, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories.

(E) Requirements.—The Commission, after consideration of all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories, and consultation with State regulatory authorities and unregulated electric utilities, and after notice and opportunity for comment, shall promulgate additional interconnection requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes, which was ordered to lie on the table; as follows:

SEC. 861. SCIENCE.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle, including the amounts authorized under the amendment made by section 907(c)(2)(D), and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, and research analysis and infrastructure support:

(1) For activities of the Fusion Energy Sciences Program, including activities under subsection (b), the following sums are authorized:

(A) For construction in fiscal year 2004, $3,785,000,000.

(E) For fiscal year 2008, $393,000,000.

(B) For construction in fiscal year 2005, $3,785,000,000.

(F) For construction in fiscal year 2007, $41,100,000,000.

(C) For construction in fiscal year 2006, $362,000,000.

(G) For construction in fiscal year 2008, $4,153,000,000.

(D) For the Spallation Neutron Source Program, including activities under subsection (b), the following sums are authorized:

(1) For fiscal year 2004, $3,785,000,000.

(2) For fiscal year 2005, $3,785,000,000.

(3) For fiscal year 2006, $3,785,000,000.

(4) For fiscal year 2007, $3,785,000,000.

(5) For fiscal year 2008, $3,785,000,000.

(2) For the Spallation Neutron Source Program, including activities under subsection (b), the following sums are authorized:

(1) For construction in fiscal year 2004, $3,785,000,000.

(2) For construction in fiscal year 2005, $3,785,000,000.

(3) For construction in fiscal year 2006, $3,785,000,000.

(4) For construction in fiscal year 2007, $3,785,000,000.

(5) For construction in fiscal year 2008, $3,785,000,000.

(3) For the Office of Basic Energy Sciences, the following sums are authorized:

(A) For construction in fiscal year 2004, $3,785,000,000.

(1) For activities of the Fusion Energy Sciences Program, including activities under subsection (b), the following sums are authorized:

(A) For construction in fiscal year 2004, $3,785,000,000.

(B) For construction in fiscal year 2005, $3,785,000,000.

(C) For construction in fiscal year 2006, $3,785,000,000.

(D) For construction in fiscal year 2007, $3,785,000,000.

(E) For construction in fiscal year 2008, $393,000,000.

(2) For the Spallation Neutron Source Program, including activities under subsection (b), the following sums are authorized:

(1) For construction in fiscal year 2004, $3,785,000,000.

(2) For construction in fiscal year 2005, $3,785,000,000.

(3) For construction in fiscal year 2006, $3,785,000,000.

(4) For construction in fiscal year 2007, $3,785,000,000.

(5) For construction in fiscal year 2008, $3,785,000,000.
(3) For Catalysis Research activities under section 965—
   (A) for fiscal year 2004, $33,000,000;
   (B) for fiscal year 2005, $35,000,000;
   (C) for fiscal year 2006, $36,500,000;
   (D) for fiscal year 2007, $38,200,000; and
   (E) for fiscal year 2008, $40,100,000.

(4) For Science and Engineering Research activities under section 965—
   (A) for fiscal year 2004, $270,000,000;
   (B) for fiscal year 2005, $290,000,000;
   (C) for fiscal year 2006, $310,000,000;
   (D) for fiscal year 2007, $330,000,000; and
   (E) for fiscal year 2008, $375,000,000.

(5) For activities under subsection 965(c), from the amounts authorized under subpara-
    graph (4)—
   (A) for fiscal year 2004, $135,000,000;
   (B) for fiscal year 2005, $150,000,000;
   (C) for fiscal year 2006, $180,000,000;
   (D) for fiscal year 2007, $200,000,000; and
   (E) for fiscal year 2008, $200,000,000.

(6) For activities in the Genomes to Life Program under section 965—
   (A) for fiscal year 2004, $100,000,000;
   (B) for fiscal year 2005, $170,000,000;
   (C) for fiscal year 2006, $225,000,000;
   (D) for fiscal year 2007, $415,000,000; and
   (E) for fiscal year 2008, $655,000,000.

(7) For construction and ancillary equip-
   ment for the Thermonuclear Experimental Reactor in the U.S. National Laboratory, Oak
   Ridge National Laboratory, Oak Ridge, Tennessee.

(a) PARTICIPATION.—
   (1) The Secretary of Energy is authorized
   to undertake full scientific and technolog-
   ical research in the International Thermonuclear Experimental Reactor project (referred to in this title as “ITER”).
   (2) In the event that ITER fails to go for-
   ward in a reasonable period of time, the
   Secretary shall send to Congress a plan, in-
   cluding costs and schedules, for imple-
   menting the domestic burning plasma experi-
   ment fusion ignition research experiment. Such a plan shall be de-
   veloped with full consultation with the Fusion Energy Science Advisory Committee and be reviewed by the National Research Council.

(b) PLANNING.—
   (1) Not later than 180 days of the date of
   enactment of this act, the Secretary shall present to Congress a plan, with proposed cost estimates, budgets and potential inter-
   national partners, for the implementation of the goals of this section. The plan shall ensur-
   e that—
      (A) the existing fusion research facilities are
   more fully utilized;
      (B) fusion science, technology, theory, ad-
   vanced computation, modeling and simul-
   ations are strengthened;
      (C) new magnetic and inertial fusion re-
   search facilities are selected based on sci-
   entific innovation, cost effectiveness, and
   their potential to advance the goal of prac-
   tical fusion energy at the earliest date pos-
   sible, and those that are selected are funded at a cost-effective rate;
      (D) communication of scientific results
   and methods between the fusion energy
   science community and the broader sci-
   entific and technology communities is im-
   proved;
      (E) inertial confinement fusion facilities
   are utilized to the extent practicable for
   the purpose of inertial fusion energy research and development; and
      (F) attractive alternative inertial and
   magnetic fusion energy approaches are more
   fully explored.
   (2) Such plan shall also address the status
   and, to the degree possible, costs and schedules for
   (A) in coordination with the program in
   section 969, the design and implementation of
   international or national facilities for the testing of fusion power systems; and
   (B) the design and implementation of
   international or national facilities for the
   testing and development of key fusion tech-

(c) AUTHORIZATION OF APPROPRIATIONS.—
   The total amount obligated by the Depart-
   ment, including prior year appropriations, for the Spallation Neutron Source may not ex-
   ceed—
   (1) $1,192,700,000 for costs of construc-
   tion; (2) $203,000,000 for other project costs; and
   (3) $1,411,700,000 for total project cost.

SEC. 964. SUPPORT FOR SCIENCE AND ENERGY
   FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POL-
   ICY.—The Secretary shall develop and imple-
   ment a strategy for facilities and infrastruc-
   ture supported primarily from the Office of
   Science, the Office of Biological and Environ-
   mental Sciences, and the Office of Energy Efficiency and Renewable Energy, and at
   national user facilities such as nanoscience and engineering centers;

(b) DUTIES OF THE OFFICE OF SCIENCE.—In
   carrying out this program, the Director of the Office of Science shall
   (1) support individual investigators and multidisciplinary teams of investiga-
   tors to pioneer new approaches in catalytic design;
   (2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities such as nanoscience and engineering centers;
   (3) support technology transfer activities to benefit industry and other users of catal-
   ysis science and engineering; and
   (4) coordinate research and development activities with industry and other federal
   agencies.

SEC. 966. BIENNIAL ASSESSMENT.—The National
   Academy of Sciences shall review the catal-
   ysis program every three years to report on
   gains made in the fundamental science of ca-
   talysis and its progress towards developing
   new fuels for energy production and material fabrication processes.

SEC. 967. NANOSCALE SCIENCE AND ENGIN-
   EERING RESEARCH.

(a) ESTABLISHMENT.—The Secretary, acting
   through the Office of Science, shall support
   a program of research, development, demon-
   stration, and commercial application in
   nanoscience and nanoeengineering. The pro-
   gram shall include efforts to further the un-
   derstanding of the chemistry, physics, mate-
   rials science, and engineering of phenomena
   on the scale of nanometers and to apply this
   knowledge to the Department’s mission and to
   (b) DUTIES OF THE OFFICE OF SCIENCE.—In
   carrying out the program under this section, the Office of Science shall
   (1) support both individual investigators and teams of investigators, including multi-
   disciplinary teams;
   (2) carry out activities under subsection (c); and
   (3) support technology transfer activities to benefit industry and other users of
   nanoscience and nanoeengineering; and
   (4) coordinate research and development activities with other DOE programs, indus-
   try and other Federal agencies.
gram distributed scientific collaboration.

(2) Projects under paragraph (1) may include microcharacterization facilities, microlithography facilities, scanning probe facilities, and related instrumentation.

(4) The Secretary shall encourage collaborations among DOE programs, institutions of higher education, laboratories, and industry at facilities under this subsection.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) In General.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenges, computationally based, science problems related to departmental 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 scientific platforms in collaboration with other DOE program offices;

(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;

(3) enhance national collaborative and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to provide them access to multiple supercomputer facilities; and

(5) explore new computing approaches and technologies that promise to advance scientific computing including developments in quantum computing.

(c) High-Performance Computing Act of 1991—Amendments.—The High-Performance Computing Act of 1991 is amended—

(1) in section 4 (15 U.S.C. 5503)—

(A) in paragraph (3) by striking “means” and inserting “networking and information technology means”;

(B) by striking “including vector supercomputers and large scale parallel systems”;

and

(B) in paragraph (4), by striking “packet switched”; and

(2) in section 203 (15 U.S.C. 5523)—

(A) in subsection (a), by striking all after “As part of the” and inserting “Networking and Information Technology Research and Development Program, the Secretary of Energy shall carry out applied research in networking and information technology, with emphasis on supporting fundamental research in the physical sciences and engineering applications; providing supercomputer access and advanced communication capabilities and facilities to scientific researchers; and developing tools for distributed scientific collaboration.”

(B) in subsection (b), by striking “Program” and inserting “Networking and Information Technology Research and Development Program”;

(C) by amending subsection (e) to read as follows:

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Energy to carry out the Networking and Information Technology Research and Development Program such sums as may be necessary for fiscal years 2004 through 2008.

(d) Consultation.—The Secretary shall ensure that the program under this section is integrated and consistent with—

(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Administration; and

(2) other national efforts related to advanced scientific computing for science and engineering.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) Establishment.—The Secretary shall carry out a program of research, demonstration, and commercial application, to be known as the Genomes to Life Program, in systems biology and proteomics consistent with the Department’s statutory authorities.

(b) Planning.—

(1) The Secretary shall prepare a program plan describing how knowledge and capabilities would be integrated in the program and applied to Department missions relating to energy security, environmental cleanup, and national security.

(2) The program plan will be developed in consultation with other relevant Department technology programs.

(3) The program plan shall focus science and technology on long-term goals, including—

(A) contributing to U.S. independence from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) The program plan shall establish specific short-term goals and update these goals with the Secretary’s annual budget submission.

(c) Program Execution.—In carrying out the program under this Act, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support other federal activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other federal agencies.

(d) Genomes to Life User Facilities and Ancillary Equipment.—

(1) Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 961(b)(7) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) Projects under paragraph (1) may include—

(A) the identification and characterization of multienzyme complexes;

(b) characterization of gene regulatory networks;

(c) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(d) development of computational methods and capabilities to advance understanding of biological systems and predict their behavior.

(3) Facilities under paragraph (1) may include—

(A) facilities, equipment, or instrumentation for—

(1) the production and characterization of proteins;

(2) whole proteome analysis; and

(3) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. All facilities under this subsection shall have a specific mission of technology transfer to other institutions.

(e) Crosscutting Research with Nanotechnology Programs.—The Secretary shall support one or more consortia to integrate nanotechnology and microfluidic tools with research and development in genomics, systems biology, biotechnology, and molecular imaging.

SEC. 969. FUSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

In the President’s fiscal year 2006 budget request, the Secretary shall establish a research and development program on material science issues presented by advanced fusion reactor and the Department’s fusion research programs. The program shall develop a catalog of material properties required for these applications, develop theoretical models for materials possessing the required properties, benchmark existing data, and develop a roadmap to guide further research and development in this area.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) Establishment.—There is established within the Office of Science, Office of Biological and Environmental Research, the Energy-Water Supply Technologies Program, to study energy-related issues associated with water resources and municipal waterworks and to study water supply issues related to energy production.

(b) Definitions.—

(1) The term “Foundation” means the American Water Works Association Research Foundation.

(2) The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) The term “Program” means the Water Supply Technologies Program established by section 970a.

(c) Program Areas.—The program shall conduct research and development, including—

(A) arsenic removal under subsection (d); and

(B) desalination research program under subsection (e).

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) Arsenic Removal Program.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to utilize the facilities, institutions and laboratories established by the Consolidated Appropriations Resolution, 2003, as described in Senate Report 107-220 that will
carry out a research program to develop and demonstrate innovative arsenic removal technologies. 

(2) In carrying out the arsenic removal program, the Secretary shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies; 

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and 

(C) minimizing the quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) The research shall be based on peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) In carrying out the arsenic removal program—

(A) demonstration projects will be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistry representative of areas across the United States with arsenic levels near or exceeding EPA guidelines; and 

(B) not less than 40 percent of the funds of the Department for demonstration projects under the arsenic removal program shall be expended on projects focused on needs of and in partnership with rural communities or Indian tribes.

(5) The Secretary shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other federal agencies, state programs and academia.

(7) Not later than 1 year after the date of commencement of the arsenic removal program, and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(b) Desalination Program.—

The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed in Title II of the Energy Policy Act of 2001 (Public Law 107-171), and made available in response to these tools at the scale of river basins with at least one demonstration involving an international border, and to other federal agencies, state agencies, non-profit organizations, industry, and academia for use in their energy and water sustainability efforts.

(8) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that describes the research plan required under this paragraph and assess the viability of these technologies to reduce water use in energy production. 

(9) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technological development needs and activities required to support long-term water needs for hydropower and thermo-electric power generation; 

(B) future resources needed to support development of water purification and treatment including desalination and long-distance water conveyance; 

(C) resources of water produced as a by-product of oil and gas extraction; 

(D) use of impaired and non-traditional water supplies for energy production and other uses; 

(E) technologies to reduce water use in energy production.

(c) Water and Related Resources To Include Incremental Hydropower.—

(i) Incremental Hydropower.—

(1) The Secretary shall be certified by the Secretary in cooperation with the Secretary of the Interior, Army Corps of Engineers, Environmental Protection Agency, Department of Defense, state agencies, non-governmental agencies and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States including but not limited to the water needs for hydropower and thermo-electric power generation; 

(B) future resources needed to support development of water purification and treatment including desalination and long-distance water conveyance; 

(C) resources of water produced as a by-product of oil and gas extraction; 

(D) use of impaired and non-traditional water supplies for energy production and other uses; 

(E) technologies to reduce water use in energy production.

(2) In addition to the assessments in (2), the Secretary shall—

(A) develop a research plan defining the scientific and technological development needs and activities required to support long-term water needs for hydropower and energy sustainability, use of impaired water for energy production and other uses, and reduction of water use in energy production; 

(B) carry out the research plan required under (A) including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies and strategies; 

(C) implement at least three planning demonstration projects using the models, tools and planning approaches developed under paragraph (B); 

(D) transfer benefits to other federal agencies, state agencies, non-profit organizations, industry, and academia for use in their energy and water sustainability efforts.

(ii) Determination of Incremental Hydropower Production.—For purposes of clause (i), incremental hydropower production for any hydropower facility for any tax year shall be determined by establishing a percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity as determined under clause (i).
SA 1477. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Amendments to section 179D

SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) AVERAGE ALLOWANCE OF DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(1) 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 179B the following new section:

SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(i) AVERAGE ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or a provider of electric energy services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $10,000.

(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term ‘qualified energy management device’ means any meter or metering device which provides for:

(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property referred to in section 179D(f)(3) for property taken into account under section 179D(f).

(e) BASIS REDUCTION.—In general.—For purposes of this subtitle, if a deduction is allowed under this section with respect to a qualified energy management device, the basis of such property shall be reduced by the amount of the deduction so allowed.

(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowed under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowable for purposes of section 179.

(f) TERMINATION.—This section shall not apply to any qualified energy management device placed in service after December 31, 2007.

SA 1478. Mr. BINGAMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) AVERAGE ALLOWANCE OF DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(1) 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 179B the following new section:

SEC. 179D. DEDUCTION FOR QUALIFIED ENERGY MANAGEMENT DEVICES.

(i) AVERAGE ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or a provider of electric energy services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $10,000.

(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term ‘qualified energy management device’ means any meter or metering device which provides for:

(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.

(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property referred to in section 179D(f)(3) for property taken into account under section 179.

(e) BASIS REDUCTION.—In general.—For purposes of this subtitle, if a deduction is allowed under this section with respect to a qualified energy management device, the basis of such property shall be reduced by the amount of the deduction so allowed.

(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowed under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowable for purposes of section 179.

(f) TERMINATION.—This section shall not apply to any qualified energy management device placed in service after December 31, 2007.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Stakeholder XI

SA 1480. Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. JEFFORDS, Mr. CHAFFEE, Mr. DORGAN, and Ms. CANTWELL) submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Stakeholder XI

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike ‘‘ending on’’ and insert ‘‘ending on December 31, 2007.’’

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike ‘‘ending on’’ and insert ‘‘ending on December 31, 2007.’’

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike ‘‘ending on’’ and insert ‘‘ending on December 31, 2007.’’

SA 1476. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, strike ‘‘ending on’’ and insert ‘‘ending on December 31, 2007.’’
"(A) generating electric energy using new renewable energy or existing renewable energy;
(B) purchasing electric energy generated by new renewable energy or existing renewable energy;
(C) purchasing renewable energy credits issued under subsection (b); or
(D) any combination of the foregoing.

(b) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

(1) Not later than January 1, 2003, the Secretary shall establish a renewable energy credit trading program to permit an electric utility that does not generate or purchase sufficient electric energy from renewable energy to meet its obligations under subsection (a)(1) to satisfy such requirements by purchasing sufficient renewable energy credits.

(2) As part of such program the Secretary shall—
   (A) issue renewable energy credits to generators of electric energy from new renewable energy;
   (B) sell renewable energy credits to electric utilities at the rate of 1.5 cents per kilowatt-hour (as adjusted for inflation under subsection (g));
   (C) ensure that a kilowatt hour, including the associated renewable energy credits, shall be used only once for purposes of compliance with this section;
   (D) allow double credits for generation from facilities on Indian Lands, and triple credits for generation from solar, wind, or ocean energy; and
   (E) rules.—The Secretary shall issue rules implementing this section not later than one year after the date of enactment of this section.

(c) ENFORCEMENT.—

(1) AMOUNT OF PENALTY.—The Secretary shall assess a civil penalty under this section for each year beginning in December 31 of each year beginning in calendar year 2002 and each subsequent calendar year equal to—
   (A) the amount of electric energy sold to electric consumers during the preceding calendar year;
   (B) the average annual kilowatt hours of electric energy sold to electric consumers during the preceding calendar year, or
   (C) the average annual kilowatt hours of electric energy sold to electric consumers in the State in which the electric utility does not generate or purchase sufficient electric energy from renewable energy for the 3 years from the date issued.

(2) MOUNT OF PENALTY.—For purposes of this section—
   (A) the term ‘base amount of electricity sold’ means—
      (i) the additional energy above the average generation in the 3 years preceding the date of enactment of this section at the facility or generation source from solar, wind, ocean, current, wave, tidal or geothermal energy; biomass (as defined in section 504(b)); or landfill gas;
      (ii) the additional energy above the average generation in the 3 years preceding the date of enactment of this section at the facility or generation source from solar, wind, ocean, current, wave, tidal or geothermal energy; and
      (iii) the incremental geothermal production, or
   (B) the term ‘incremental geothermal production’ means the incremental energy generated from an advanced truck stop electrification system.

(3) Mitigation or Waiver.—The Secretary may mitigate or waive a civil penalty under this section if the Secretary determines that the amount of electric energy sold is less than the amount calculated under this paragraph because the utility has—
   (A) generated new renewable energy to meet the requirements established under paragraph (a)(1) and (2) of this section; or
   (B) the Secretary, in consultation with the States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal programs and State programs.

(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection if the electric utility was unable to meet the requirements established under paragraph (a)(1) and (2) of this section for reasons outside of the reasonable control of the utility.

(5) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this section in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6222) for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the use of electricity at customer sites such as solar water heating systems.

(6) The Secretary may issue guidelines and criteria for grants awarded under this section and may promulgate any necessary procedures for the administration of this section.

(7) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—ife efficacy improvements and capacity additions shall be measured on the basis of 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.

(8) STATE PROGRAMS.—The term ‘‘geothermal energy’’ means energy derived from a geothermal deposit (within the meaning of section 623(e)(2) of the Internal Revenue Code of 1986).

(9) INCREMENTAL GEO THERMAL PRODUCTION.—

(A) ‘‘Incremental geothermal production’’ means any year the excess of—
   (i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy, over
   (ii) the average annual kilowatt hours produced from such facility for the previous 7 calendar years.

(10) SPECIAL RULE.—A facility described in subparagraph (A) of this paragraph which was placed in service within 7 years before the date of enactment of this section shall commence with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

(11) INCOME TAX PROVISIONS.—For purposes of this section—
   (A) electric energy generated at a hydroelectric facility (except incremental hydropower); and
   (B) electric energy generated at a facility using geothermal production, placed in service prior to the date of enactment of this section, is not subject to any income tax under section 613(e)(2) of the Internal Revenue Code of 1986.

(12) ELECTRICITY.—The term ‘‘electricity’’ means all forms of electric energy.

(13) ELECTRIC FACILITIES.—The term ‘‘electric facilities’’ includes any new renewable electric generating facilities.

(14) IMPLEMENTATION.—Nothing in this section shall diminish any authority of a State or political subdivision thereof to adopt or enforce regulations respecting renewable energy, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this section.

(i) IN GENERAL.—The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

(15) DEFINITIONS.—For purposes of this section—
   (A) electric energy generated at a facility (including a distributed generation facility) using geothermal energy; and
   (B) electric energy generated at a facility using geothermal energy that is placed in service prior to the date of enactment of this section.

(16) ‘‘Advanced truck stop electrification system’’ means a system that—
   (A) is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without re-quiring an credential to access services,
   (B) is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without require-
(3) **Auxiliary power unit.**—The term “auxiliary power unit” means an integrated system that—

(A) provides heat, air conditioning, engine warm-up, and supervision of the function of the fuel-injected or fuel-injected and electrically or hydraulically powered components (other than the engine itself) of a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator of the Environmental Protection Agency under part 89 of title 40, Code of Federal Regulations (or successor regulations), as meeting applicable emission standards.

(4) **Heavy-duty vehicle.**—The term “heavy-duty vehicle” means a vehicle that—

(A) has an axle weight greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) **Idle reduction technology.**—The term “idle reduction technology” means an advanced truck stop electrification system, auxiliary power unit, or another device or system of devices that—

(A) is engaged by the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to begin down; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to begin down.

(6) **Long-duration idling.**—

(A) **In general.**—The term “long-duration idling” means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) **Exclusions.**—The term “long-duration idling” does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(7) **Idle reduction technology benefits.**—Programs and studies.—

(A) **In general.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7403 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles associated with long-duration idling;

(ii) update those models as the Administrator determines to be appropriate; and

(iii) prepare and make publicly available 1 or more reports of the results of the study.

(B) **Vehicle weight exemption.**—Section 727(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences of paragraphs (1) through (13), respectively; and

(2) by adding at the end the following:

(C) **Proof.**—Subject to subparagraphs (A) and (B), in order to promote reduction of fuel use and emissions due to idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(D) **Maximum weight increase.**—The weight increase under subparagraph (A) shall not be greater than 250 pounds.

(E) **Alternative conditions and studies.**—

(i) the idle reduction technology is fully functional at all times; and

(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."

SA 1482. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1432 proposed by Mr. FRIST to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

**Strike the text starting on page 159, line 14, through page 165, line 14, and insert the following: SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(a) **Alternative mandatory conditions.**—

Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding may propose an alternative condition.

(h)(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision such reservation falls shall accept the proposed alternative condition, if the alternative condition is—

(i) costless less to implement, or

(ii) result in improved operation of the project works for electricity production.

SEC. 511. ALTERNATIVE CONDITIONS AND FISHWAYS. **(a) Alternative mandatory conditions.**—

Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the ‘Secretary’) shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant or any other party to the licensing proceeding, including States and Indian tribes, may propose an alternative condition.

(b) **Alternative fishways.**—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

("b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

(b) **Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and consider the alternative prescribed by the applicant, if the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

(A) will be no less effective than the fishway initially prescribed by the Secretary, and

(B) will either—

(i) cost less to implement, or

(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially prescribed by the Secretary.

(3) Within 1 year after the enactment of this section, the Secretary of the Interior and the Secretary of Commerce shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection."."
"(2) Notwithstanding the first proviso of subsection (a), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

(A) is necessary for the adequate protection and utilization of the reservation; and

(B) will either—

(i) not less effective, or

(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (a) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this, as appropriate, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

(b) ALTERNATIVE FISHERIES.—Section 18 of the Federal Power Act (16 U.S.C. 821) is amended by—

(1) inserting "(a)" before the first sentence; and

(2) adding at the end the following:

"(b) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway, or a fishway under this section, the license applicant or any other party to the licensing proceeding, including States and Indian tribes, may propose an alternative to such prescription to construct, maintain, or operate a fishway."

"(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, in approving the fishway referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

(A) will be no less effective than the fishway initially prescribed by the Secretary; and

(B) will either—

(i) cost less to implement, or

(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and the effects of the prescription accepted or alternative prescription on energy supply, distribution, cost, and use, air quality, flood control, navigation and, drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others."

SA 1484. Mr. ENY (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title D of title IV, insert the following:

**S.** 2003. WHISTLER LAKE PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 212(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 9852(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking "that is indemnified" and all that follows through "2234," and inserting "or the Commission; and";

and

(3) by adding at the end the following:

"(e) DE NOVO JUDICIAL DETERMINATION.—Section 212(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 9852(b)) is amended by adding at the end the following:

"(4) DE NOVO JUDICIAL DETERMINATION.—If the Secretary does not issue a final decision within 180 days after the filing of a complaint under paragraph (1) and the Secretary does not show that the delay is caused by the bad faith of the claimant, the claimant may bring a civil action in the United States district court for a determination of the claim by the court de novo."

SA 1485. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 46, line 7, after "(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1);" insert the following:

"(a) describe the progress in developing and implementing measures under subsection (b); and

(b) identify opportunities to reduce natural gas demand further through new legislative initiatives.

"(c) MEASURES TO REDUCE NATURAL GAS DEPENDENCE THROUGH INCREASED EFFICIENCY AND CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve natural gas in end uses (not including electrical generation) throughout the economy of the United States sufficient to reduce total end use demand for natural gas in the United States by at least 10 percent from the amount projected for calendar year 2015, and by at least 20 percent from the amount projected for calendar year 2025, in accordance with the report required under subsection (b) on the assessment of measures that promote increased energy efficiency and conservation and not reflect changes caused by fuel switching or from natural gas.

(2) CONTESTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 1487. Mr. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 32(d) of the Outer Continental Shelf Lands Act (as added by section 313), add the following:

"(b) APPROVAL.—In approving the plans of the coastal political subdivisions, the Governor of the State of Louisiana shall have the authority only to ensure that the proportion of funds that are in the plans of the coastal political subdivisions are consistent with the authorized uses under subsection (e).

SA 1488. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division B, insert the following:

**SEC. 1201. REDUCTION OF DEPENDENCE ON NATURAL GAS.**

(a) DEFINITION.—Section 4 of the Energy Independence and Security Act of 2007 (42 U.S.C. 1704) is amended—

(1) in subsection (a)(2), by striking "and conservation and not reflect changes caused by fuel switching to or from natural gas.

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

"(b) MEASURES TO REDUCE NATURAL GAS DEPENDENCE THROUGH INCREASED EFFICIENCY AND CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve natural gas in end uses (not including electrical generation) throughout the economy of the United States sufficient to reduce total end use demand for natural gas in the United States by at least 10 percent from the amount projected for calendar year 2015, and by at least 20 percent from the amount projected for calendar year 2025, in accordance with the report required under subsection (b) on the assessment of measures that promote increased energy efficiency and conservation and not reflect changes caused by fuel switching or from natural gas.

(2) CONTESTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

SA 1489. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division B, insert the following:

**SEC. 1201. QUALIFIED DUCT SEALING SERVICES.**

(a) DEFINITION.—Section 30(c)(2) of the Energy Independence and Security Act of 2007 (42 U.S.C. 1703) is amended—

(1) in subsection (a)(2), by striking "and conservation and not reflect changes caused by fuel switching to or from natural gas.

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.
this Act, is amended by inserting after section 25D the following new section:

SEC. 25E. QUALIFIED DUCT SEALING SERVICES AND QUALIFIED AIR INFILTRATION REDUCTION SERVICES.

(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 25 percent of the amount paid or incurred by the taxpayer for qualified duct sealing services or qualified air infiltration reduction services performed during such year.

(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300 reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by this section for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

(1) QUALIFIED DUCT SEALING SERVICES; QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—For purposes of this section—

(1) QUALIFIED DUCT SEALING SERVICES.—(A) The term ‘qualified duct sealing services’ means services which bring the duct system of a dwelling into compliance with the Energy Star Duct Specifications published by the Environmental Protection Agency if such service is performed with regard to a dwelling which—

(i) is located in the United States,

(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

(iii) is owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121).

(B) CERTIFICATION REQUIRED.—Services shall not be considered to be qualified duct sealing services unless the dwelling is determined to be not in compliance with such Energy Star Duct Specifications before such services are performed and added to the credit allowable under subsection (a) for such succeeding taxable year.

(2) QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—(A) IN GENERAL.—The term ‘qualified air infiltration reduction services’ means services which bring the air infiltration of a dwelling into compliance with the infiltration requirements in the Energy Star Home Sealing Specifications published by the Environmental Protection Agency, if such service is performed with regard to a dwelling which—

(i) is located in the United States,

(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

(iii) is owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121).

(B) CERTIFICATION REQUIRED.—Services shall not be considered to be qualified air infiltration reduction services unless the dwelling is determined to be not in compliance with such Energy Star Home Sealing Specifications before such services and is certified to be in compliance with such Energy Star Home Sealing Specifications after such services.

(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in section 1400C(d)), such individual shall be treated as having paid the tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of the cost of qualified duct sealing services or qualified air infiltration reduction services expenditures made by such corporation.

(3) CONDOMINIUMS.—(A) IN GENERAL.—In the case of an individual who is a member of a condominium management 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 duct sealing services or qualified air infiltration reduction services expenditures made by such association.

(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(C) MANUFACTURED HOMES INCLUDED.—For purposes of this paragraph, the term ‘dwelling’ includes a manufactured home which contains dwelling units described in paragraphs (1) and (2) of section 32."
(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking "sections 25C and 25D" and inserting "sections 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 at end the following new section:

"Sec. 25E. Qualified duct sealing services and qualified air infiltration reduction services."

(d) Effective Dates.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to property installed after the date of enactment of this Act, 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.

SA 1489. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division B, insert the following:

SEC. 2. REPLACEMENT NATURAL GAS OR PRO-PANE FURNACE OR BOILER.

(a) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by this Act, is amended by inserting after section 25D, as amended by this Act, the following new section:

"Sec. 25E. Replacement natural gas or propane furnace or boiler."

(b) Limitations.—The credit allowed under subsection (a) for any dwelling unit shall not exceed $300 over the aggregate cost taken into account under subsection (a) with respect to such unit for all preceding taxable years.

(c) Carryforward of Unused Credit.—If the credit allowed under subsection (a) exceeds the limitations imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credits allowable under subsection (a) for such succeeding taxable year.

(d) Replacement Natural Gas or Propane Furnace or Boiler.—

(1) In general.—For purposes of this section, "replacement natural gas or propane furnace or boiler" means a natural gas or propane furnace or boiler which achieves at least 90 percent annual fuel utilization efficiency.

(2) Labor Costs.—Labor costs properly allocable to the onsite preparation, assembly, or original installation of a replacement natural gas or propane furnace or boiler for piping or wiring to interconnect such natural gas or propane furnace or boiler to the dwelling unit shall be taken into account for purposes of this section.

(e) Special Rules.—For purposes of this section—

(1) Property financed by subsidized energy financing.—No credit shall be allowed under subsection (a) to the extent that the property is paid for by subsidized energy financing (as defined in section 468(c)(1)),

(2) No double benefit.—The amount of any deduction or other credit allowable under this chapter for any tax year taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

(f) Basis Adjustments.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

(g) Limitation on amount of tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 26A for such taxable year,

(2) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year,

(3) the credits allowable under sections 25C, 25D, and 25E, and

(4) the credit allowable under section 25A for such taxable year.

(h) Transferability of Credit.—

(1) In general.—A person described in paragraph (2) of this section is permitted to transfer the credit allowable under this section to another person, including a corporation or instrumentality thereof.

(2) Transfer of credit.—

(A) In general.—A person is permitted to transfer the credit allowable under this section to another person, including a corporation or instrumentality thereof, if such person is determined not to be a significant partial owner under section 54(g)(1)(B).

(B) Effect of transfer.—Any transfer of the credit allowable under this section shall be treated as a tax preference for purposes of section 54(g)(1).

(i) Treatment of Persons Not able to Use Entire Credit.—

(1) Allowance of credit.—"(A) In general.—Any credit allowable under subsection (a) with respect to any natural gas or propane furnace or boiler which produces coal gasification from lignite shall be transferred to a person described in subparagraph (B) who is a corporation or instrumentality thereof.

(2) Transfer to other persons.—Any corporation or instrumentality thereof may be a recipient of a transfer of any credit allowable under this section, and the determination as whether the credit allowable shall be made without regard to the tax-exempt status of the person.

(3) Persons described.—A person is described in this subparagraph if the person is—

(i) an organization described in section 501(c)(3) and exempt from tax under section 501(a),

(ii) an organization described in section 1381(a)(2)(C) or subsidiaries of such organizations,

(iii) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

(iv) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

(4) Transfer of credit.—"(A) In general.—A person described in 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.

(8) consumers and small businesses have few options other than to pay higher energy costs when prices spike, resulting in reduced investment and slower economic growth and job creation.

(9) the effect of price spikes, and possible responses to price spikes, on consumers and small businesses should be examined; and

(10) studies have examined price spikes of specific energy products in specific contexts or for specific reasons, but no study has examined price spikes comprehensively with a focus on the impacts on consumers and small businesses.

(d) DEFINITIONS.—In this section—

(1) the term “Commission” means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term “consumer energy product” means—

(A) electricity;

(B) gasoline;

(C) heating oil;

(D) natural gas; and

(E) propane.

(3) CONSUMER GROUP FOCUSING ON ENERGY ISSUES.—The term “consumer group focusing on energy issues” means—

(A) an organization that is a member of the National Association of State Utility Consumer Advocates; and

(B) a nongovernmental organization representing the interests of small businesses; and

(C) a nongovernmental organization that—

(i) receives not more than 1/4 of its funding from energy industries; and

(ii) represents the interests of energy consumers.

(4) ENERGY CONSUMER.—The term “energy consumer” means an individual or small business that purchases 1 or more consumer energy products.

(5) ENERGY INDUSTRY.—The term “energy industry” means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(6) EXECUTIVE COMMITTEE.—The term “Executive Committee” means the executive committee of the Commission.

(7) SMALL BUSINESS.—The term “small business” has the meaning given the term “small business concern” in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(8) CONSUMER ENERGY COMMISSION.—

(a) FINDINGS.—Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics,

(B) electricity price spikes during the California energy crisis of 2001,

(C) the Midwest gasoline price spikes in spring 2003,

(D) shifts in energy regulation, including the allowance of greater flexibility in commission decision making, have affected price stability and consumers in ways that are not fully understood;

(E) price spikes undermine the ability of small businesses and other entities involved in the generation, selling, or buying of energy to offer stable prices; and

(F) energy producers and consumers are not immune to the effects of price spikes; and

(b) DEFINITIONS.—In this section—

(1) the term “Commission” means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term “consumer energy product” means—

(A) electricity;

(B) gasoline;

(C) heating oil;

(D) natural gas; and

(E) propane.

(b) ENERGY CONSUMER.—The term “energy consumer” means an individual or small business that purchases 1 or more consumer energy products.

(c) ENERGY INDUSTRY.—The term “energy industry” means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(d) EXECUTIVE COMMITTEE.—The term “Executive Committee” means the executive committee of the Commission.

(e) SMALL BUSINESS.—The term “small business” has the meaning given the term “small business concern” in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(f) CONSUMER ENERGY COMMISSION.—

(a) FINDINGS.—Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics,

(B) electricity price spikes during the California energy crisis of 2001,

(C) the Midwest gasoline price spikes in spring 2003,

(D) shifts in energy regulation, including the allowance of greater flexibility in commission decision making, have affected price stability and consumers in ways that are not fully understood;

(E) price spikes undermine the ability of small businesses and other entities involved in the generation, selling, or buying of energy to offer stable prices; and

(F) energy producers and consumers are not immune to the effects of price spikes; and

(b) DEFINITIONS.—In this section—

(1) the term “Commission” means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term “consumer energy product” means—

(A) electricity;

(B) gasoline;

(C) heating oil;

(D) natural gas; and

(E) propane.

(b) ENERGY CONSUMER.—The term “energy consumer” means an individual or small business that purchases 1 or more consumer energy products.

(c) ENERGY INDUSTRY.—The term “energy industry” means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(d) EXECUTIVE COMMITTEE.—The term “Executive Committee” means the executive committee of the Commission.

(e) SMALL BUSINESS.—The term “small business” has the meaning given the term “small business concern” in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(f) CONSUMER ENERGY COMMISSION.—

(a) FINDINGS.—Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics,

(B) electricity price spikes during the California energy crisis of 2001,

(C) the Midwest gasoline price spikes in spring 2003,

(D) shifts in energy regulation, including the allowance of greater flexibility in commission decision making, have affected price stability and consumers in ways that are not fully understood;

(E) price spikes undermine the ability of small businesses and other entities involved in the generation, selling, or buying of energy to offer stable prices; and

(F) energy producers and consumers are not immune to the effects of price spikes; and

(b) DEFINITIONS.—In this section—

(1) the term “Commission” means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term “consumer energy product” means—

(A) electricity;

(b) ENERGY CONSUMER.—The term “energy consumer” means an individual or small business that purchases 1 or more consumer energy products.

(c) ENERGY INDUSTRY.—The term “energy industry” means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(d) EXECUTIVE COMMITTEE.—The term “Executive Committee” means the executive committee of the Commission.

(e) SMALL BUSINESS.—The term “small business” has the meaning given the term “small business concern” in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(f) CONSUMER ENERGY COMMISSION.—

(a) FINDINGS.—Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics,

(B) electricity price spikes during the California energy crisis of 2001,

(C) the Midwest gasoline price spikes in spring 2003,

(D) shifts in energy regulation, including the allowance of greater flexibility in commission decision making, have affected price stability and consumers in ways that are not fully understood;

(E) price spikes undermine the ability of small businesses and other entities involved in the generation, selling, or buying of energy to offer stable prices; and

(F) energy producers and consumers are not immune to the effects of price spikes; and

(b) DEFINITIONS.—In this section—

(1) the term “Commission” means the Consumer and Small Business Energy Commission established by subsection (c)(1).

(2) CONSUMER ENERGY PRODUCT.—The term “consumer energy product” means—

(A) electricity;

(B) gasoline;
of the report under paragraph (8)(B).


efficiency, supply disruptions, refiner capacity limits, insufficient inventories, supply dislocations, insufficient research and development, and small business opportunities for misuse of market power, and abuses of market power;

(examining the effects of price spikes on consumers and small businesses;)

services, insufficient inventories, supply disruptions, refiner capacity limits, insufficient inventories, supply dislocations, insufficient research and development, and small business opportunities for misuse of market power, and abuses of market power;

(examining the effects of price spikes on consumers and small businesses;)

and small businesses;

and small businesses;

any other relevant market failures; and

portant behavior by energy companies, and

supplies, insufficient research and development, including insufficient inventories, supply disruptions, refiner capacity limits, insufficient inventories, supply dislocations, insufficient research and development, and small business opportunities for misuse of market power, and abuses of market power;

(examining the effects of price spikes on consumers and small businesses;)

and small businesses;

any other relevant market failures; and

(SA 1494. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, strike lines 13 and 14 and insert the following:

(b) Use of at least 75 percent coal to produce 50 percent or more of its thermal output as electricity.

SA 1494. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, strike lines 13 and 14 and insert the following:

(b) Use of at least 75 percent coal to produce 50 percent or more of its thermal output as electricity.

(SA 1495. Mr. ROCKEFELLER (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 218 of Division B, after line 23, insert the following:

(a) Facilities producing coke.

(A) In general.—In the case of a facility described in subparagraph (C) for producing coke which was placed in service after the date of the enactment of this Act, the Executive shall with respect to fuel produced at such facility before the close of the 5-year period beginning on the date such facility is placed in service.

(B) Coke.—For purposes of this paragraph, the term 'coke' means the residue from the destructive distillation of coal in coke ovens.

(C) Covered facilities.—A facility is described in this paragraph if such facility qualifies as a covered facility described in section 112 of the Clean Air Act (42 U.S.C. 7412).

On page 219, line 1, strike "(6)" and insert "(7)."

SA 1496. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII of division B, insert the following:

SEC. 5. OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS FROM WIND ENERGY FACILITIES.

(a) In general.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n) and by inserting after subsection (k) the following new subsection:

(i) Offset of Passive Activity Losses and Credits From Wind Energy Facilities.

(ii) Eligible taxpayer.

(iii) Special rules for wind energy credits.

(iv) Rules for computing adjusted gross income.

(v) Aggregation rules.

(vi) Pass-thru entities.

(b) Effective date.

The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. 6. CREDIT FOR WIND ENERGY FACILITIES OF AN ELIGIBLE TAXPAYER ALLOWED AGAINST MINIMUM TAX.

(a) In general.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

(c) Special rules for wind energy credits.

(d) Effective date.

The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

(b) Wind energy credit.

For purposes of this subsection, the term 'wind energy credit' means the portion of the renewable electric production credit under section 45 determined with respect to a facility using wind to produce electricity.

(c) Eligible taxpayer.

For purposes of this paragraph, the term 'eligible taxpayer' has the meaning given such term by section 469(l)(2).

(b) Conforming amendments.

Subclause (ii) of section 38(c)(2)(A)(i), as amended by this Act, or wind energy credit after 'natural gas'.

(c) Effective date.

The amendments made by this section shall not apply to taxable years ending after the date of the enactment of this Act.

(4) Application of credit to cooperatives.

(a) In general.—Section 45(e), as redesignated and amended by this Act, (relating to
tributions of the shareholders to the organization on the basis of the capital contribution by each shareholder in the organization, as determined under any plan of organization. An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Each such election shall be irrevocable for such taxable year.

Section 45(c), as amended by this Act, is amended by striking the last sentence and inserting

"(B) TREATMENT OF ORGANIZATIONS AND PARTNERS.—The amount of the credit apportioned to any shareholders under subparagraph (A) for a taxable year shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

(ii) the amount not apportioned to such shareholders under paragraph (A) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

(ii) such reduction, over

(iii) the amount not apportioned to such shareholders under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed on the shareholders on the organization. Such increase shall not be treated as tax imposed by this chapter on the organization.

SEC. 1497. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B, insert the following:

SEC. . FURTHER MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) EXTENSION OF PLACED IN SERVICE DATE.—

(1) IN GENERAL.—Section 45(c), as amended by this Act, is amended by striking ‘‘(1) January 1, 2013’’ and inserting ‘‘(1) January 1, 2014’’.

(b) BIOCARE.—Paragraph (3)(A)(ii) of section 48(c), as amended by this Act, is amended by striking ‘‘January 1, 2002’’ and inserting ‘‘January 1, 2003’’.

(c) RESTORATION OF INFLATION ADJUSTMENT.—Section 45(b)(2), as amended by this Act, is amended by striking the last sentence.

SEC. 1499. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4312 et seq., the Federal agency shall conduct a study (or nonprofit organizations; and

(2) electricity generated from renewable sources; and

(3) alternative fuel vehicles.

(b) REPORT.—The President shall direct the appropriate Federal agencies to study and submit to Congress, not later than January 1, 2005, the President shall take such actions as are necessary, including preparing and submitting to Congress any necessary statutory changes, to reduce the net greenhouse gas emissions of the Federal Government to 1990 levels by 2013, including steps to procure electricity from sources that are directed at detecting and development activities of the United States that are directed at detecting and

At the end of subtitle G of title IX, add the following:

SEC. . FEDERAL GOVERNMENT GREEN-HOUSE GAS EMISSIONS GOAL.

(a) ACTIONS.—Not later than January 1, 2004, the President shall take such actions as are necessary, including preparing and submitting to Congress any necessary statutory changes, to reduce the net greenhouse gas emissions of the Federal Government to 1990 levels by 2013, including steps to procure

(1) high only highly energy-efficient products, services, and facilities;

(2) electricity generated from renewable sources; and

(3) alternative fuel vehicles.

(b) REPORT.—The President shall direct the appropriate Federal agencies to study and submit to Congress, not later than January 1, 2005, a report on the most cost-effective policies options through which the Federal Government will reduce greenhouse gas emissions of the Federal Government to zero by 2025.

SEC. 97. GLOBAL CLIMATE CHANGE RESEARCH AND DEVELOPMENT.

No later than January 1, 2005, the Chairman of the Committee on Energy and Natural Resources, the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Interior, the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the National Aeronautic and Space Administration, and the United States government agencies and organizations, may provide grants to States or local governments for the purpose of—

(1) preparing, completing, or operating greenhouse gas data collection, inventory, or trading systems;

(2) implementing greenhouse gas emission reduction or sequestration projects, including grants to States or local governments for the purpose of—

(a) preparing, completing, or implementing carbon capture and sequestration or other greenhouse gas emission reduction activities assisted with the grants.

(b) ESTABLISH FOR MOST EFFECTIVE PROJECTS.—For each fiscal year, 50 percent of the grant funds awarded under section (a) shall be awarded competitively for projects that will reduce greenhouse gas emissions—

(1) in the greatest quantity;

(2) most rapidly; and

(3) with the greatest degree of permanence.

(c) ANNUAL REPORTING BY GRANT RECIPIENTS.—As a condition of receipt of a grant under this section, each recipient shall submit an annual report on the extent to which the emission reductions that were anticipated in the application for the grant have occurred.

(d) ANNUAL SUMMARY.—The President shall annually compile and publish in the Federal Register a summary of—

(1) the grants made under this section; and

(2) the net emission reductions due to the activities assisted with the grants.

SEC. 1500. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title IX, add the following:

SEC. . CLIMATE CHANGE IN ENVIRONMENTAL IMPACT STATEMENTS.

In any case in which a Federal agency prepares an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.), the Federal agency shall consider and evaluate—

(1) the impact that the Federal action or project will have in terms of net changes in greenhouse gas emissions; and

(2) how climate changes may affect the actions taken in the short term and the long term.

SEC. 1501. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 4321 et seq., the Federal agency shall conduct a study (or nonprofit organizations; and

(2) electricity generated from renewable sources; and

(3) alternative fuel vehicles.

(b) REPORT.—The President shall direct the appropriate Federal agencies to study and submit to Congress, not later than January 1, 2005, a report on the most cost-effective policies options through which the Federal Government will reduce greenhouse gas emissions of the Federal Government to zero by 2025.

SEC. 9. RENEWABLE ENERGY USER FEES.

No later than January 1, 2004, the President shall take such actions as are necessary, including preparing and submitting to Congress any necessary statutory changes, to reduce the net greenhouse gas emissions of the Federal Government to 1990 levels by 2013, including steps to procure electricity from sources that are directed at detecting and development activities of the United States that are directed at detecting and
TITLE VII—GREENHOUSE GAS EMISSIONS

SEC. 701. DEFINITIONS.

"In this title:

(1) Covered entity.—The term `covered entity' means an entity that emits more than a threshold quantity of greenhouse gas emissions.

(2) Direct emissions.—The term `direct emissions' means greenhouse gas emissions from a source that is owned or controlled by an entity.

(3) Entity.—The term `entity' includes a firm, a corporation, an association, a partnership, and a Federal agency.

(4) Greenhouse gas.—The term `greenhouse gas' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(5) Greenhouse gas emissions.—The term `greenhouse gas emissions' means emissions of greenhouse gases, including—

(A) stationary combustion source emissions, which are emitted as a result of combustion of fuels in stationary equipment such as boilers, furnaces, burners, turbines, reactors, engines, flares, and other similar sources;

(B) process emissions, which consist of emissions from chemical or physical processes other than combustion;

(C) fugitive emissions, which consist of intentional and unintentional emissions from—

(i) equipment leaks such as joints, seals, packing, and gaskets; and

(ii) piles, flaring towers, and other similar sources; and

(D) mobile source emissions, which are emitted as a result of combustion of fuels transported such as automobiles, trucks, trains, airplanes, and vessels.

(6) Greenhouse gas emissions record.—The term `greenhouse gas emissions record' means all of the historical greenhouse gas emissions and project reduction data submitted to an entity under this title, including any adjustments to such data under section 704(c).

(7) Greenhouse gas report.—The term `greenhouse gas report' means an annual list of the greenhouse gas emissions of an entity and the sources of those emissions.

(8) Indirect emissions.—The term `indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from sources owned or controlled by another entity.

(9) National greenhouse gas emissions information system.—The term `national greenhouse gas emissions information system' means the national greenhouse gas emissions information system established under section 702(a).

(10) National greenhouse gas emissions registry.—The term `national greenhouse gas emissions registry' means the national greenhouse gas emissions registry established under section 702.

(11) Project reduction.—The term `project reduction' means—

(A) a greenhouse gas emission reduction achieved by carrying out a greenhouse gas emission reduction project; and

(B) sequestration achieved by carrying out a sequestration project.

(12) Reporting entity.—The term `reporting entity' means an entity that reports to the Administrator under subsection (a) or (b) of section 704.

(13) Sequestration.—The term `sequestration' means the physical separation or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

(14) Threshold quantity.—The term `threshold quantity' means a threshold quantity for mandatory greenhouse gas reporting established by the Administrator under section 704(a)(3).

(15) Verification.—The term `verification' means the objective and independent assessment by the Administrator of whether a greenhouse gas report submitted by a reporting entity accurately reflects the greenhouse gas impact of the reporting entity.

(16) Data availability.—The Administrator shall submit to Congress a draft design of the national greenhouse gas emissions information system, the greenhouse gas report of the covered entity with respect to—

(i) calendar year 2003; and

(ii) each greenhouse gas emitted by the covered entity in an amount that exceeds the applicable threshold quantity.

(a) Establishment.—In consultation with the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Energy, States, the private sector, and nongovernmental organizations concerned with establishing standards for reporting of greenhouse gas emissions, the Administrator shall establish and administer a national greenhouse gas emissions information system to collect information on greenhouse gas emissions that are included in the greenhouse gas report.
"(iv) shall be reported on an entity-wide basis and on a facility-wide basis; and

"(v) to the maximum extent practicable, shall be reported electronically to the Admin-

istrator in a form as the Admin-

istrator may require.

"(C) METHOD OF REPORTING OF ENTITY-WIDE EMISSIONS.—Under subparagraph (B)(iv), en-

tity-wide emissions shall be reported on the bases of financial control and equity share in a

manner consistent with the financial re-

porting by the reporting entity.

"(2) FINAL REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—Not later than April 30, 2004, and each April 30 thereafter, the Admin-

istrator shall promulgate such regulations as are nec-

essary to implement the initial man-

ifestation of the greenhouse gas emissions information system.

"(B) TRANSFERS OF PROJECT REDUCTIONS TO AND FROM NATIONAL LEVEL.

The Administrator and the Secretary of Com-

merce, the Secretary of Agriculture, and the Secretary of Energy shall jointly work with the States, the pri-

vate sector, and nongovernmental organiza-

tions to develop best practices for the verification; and

"(C) USE OF INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

"(A) obtain independent third-party verification; and

"(B) present the results of the third-party verification to the Administrator for consid-

eration by the Administrator in carrying out paragraph (1).

"(F) ENFORCEMENT.—The Administrator may bring a civil action in United States dis-

trict court against a covered entity that fails to comply with subsection (a), or a reg-

ulation promulgated under section 706(e), to impose a civil penalty of not more than $25,000 for each day that the failure to com-

pletes.

"SEC. 706. NATIONAL GREENHOUSE GAS EMISSIONS INVENTORY.

"Not later than April 30, 2004, and each April 30 thereafter, the Administrator shall pro-

mulate such regulations as are necessary to imple-

ment the initial manifestation of the green-

house gas emissions information system and the na-

tional greenhouse gas registry.

"SEC. 706. REGULATIONS.

"(a) IN GENERAL.—The Administrator may promulgate such regulations as are neces-

sary to carry out this section.

"(b) BEST PRACTICES.—In developing regula-

tions under this section, the Administra-

tor shall seek to leverage leading protocols for the measurement, accounting, reporting, and verification of greenhouse gas emissions.

"(c) NATIONAL GREENHOUSE GAS EMISSIONS INFORMATION SYSTEM.—Not later than Janu-

ary 31, 2004, the Administrator shall promul-

gate such regulations as are necessary to estab-

lish the national greenhouse gas emissions informa-

tion system.

"(d) NATIONAL GREENHOUSE GAS REG-

ISTRY.—Not later than January 31, 2004, the Administrator shall promul-

gate such regulations as are necessary to estab-

lish the national greenhouse gas registry.

"(e) INITIAL REPORTING REQUIREMENTS.—Not later than January 31, 2004, the Admin-

istrator shall promulgate such regulations as are necessary to implement the initial man-

atory reporting requirements under section 706(a)(1).

"(f) FINAL REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Admin-

istrator shall promulgate such regulations as

"Energy shall jointly conduct an outreach program to provide information to all re-

porting entities and the public on the proto-

cols and methods developed under this sub-

section.
are necessary to implement the final manda-
ty reporting requirements under section 704(a)(2). 

(f) VOLUNTARY REPORTING PROVISIONS.—Not later than January 31, 2004, the Admin-
istrator shall promulgate such regulations and issue such guidance as are necessary to im-
plement the voluntary reporting provisions under section 704(b).

g) ADJUSTMENT FACTORS.—Not later than January 31, 2004, the Administrator shall promulgate such regulations as are nec-
essary to implement the adjustment factors under section 704(c)."

SA 1503. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was or-
dered to lie on the table; as follows:

On page 372, between lines 4 and 5, insert the following:

SEC. 97. REPORT ON COSTS TO HUMAN HEALTH AND THE ENVIRONMENT, EXTRACTION, PRODUCTION, CON-
SUMPTION, AND USE OF PRIMARY ENERGY RESOURCES. (a) DEFINITIONS.—In this section:

(1) the term "costs to human health and the environment" includes costs of air pollution, global warming, water pollution, toxic contamination, morbidity, and transgenerational effects.

(2) THE PRIMARY ENERGY RESOURCE.—The term "primary energy resource" includes a fossil fuel, nuclear energy, a renewable energy source, and electricity.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Sec-
retary of Energy, after consultation with the Admi-
rstration or agency, that relates primarily to the development of energy-efficient technologies; and

(ii) those activities should be the responsi-
bility of, and should be directed by, an inde-
pendent establishment exercising control over activities relating to the develop-
ment and promotion of energy-efficient technolo-
gies sponsored by the United States.

(b) PURPOSE.—The purpose of this section is to establish the Energy Efficiency and Renewable Energy Administration to develop tech-
ologies to increase energy efficiency and to reduce the demand for energy.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administra-
tion" means the Energy Efficiency Develop-
ment Administration established by subsection (d)(1).

(2) ADMINISTRATOR.—The term "Adminis-
tor" means the head of the Administra-
tion appointed under subsection (d)(3)(A).

(3) ADVISORY COMMITTEE.—The term "Advi-
sory Committee" means the Policy Advisory Committee established by subsection (d)(3)(A).

(4) ENERGY-EFFICIENT TECHNOLOGY ACTIVITY.—(A) IN GENERAL.—The term "energy-effi-
cient technology activity" means an activity 

(i) improves the energy efficiency of any sector of the economy, including the trans-
portation, building design, electrical genera-
tion, appliance, and power transmission sec-
tors.

(B) INCLUSION.—The term "energy-efficient technology activity" includes an activity

(i) that improves the energy efficiency of any
                sector of the economy, including the trans-
                portation, building design, electrical genera-
                tion, appliance, and power transmission sec-
                tors.

(ii) the Secretary of Energy shall be to reduce United States im-
                ports of oil by

                (A) 5 percent by 2007;
                (B) 20 percent by 2012; and
                (C) 50 percent by 2014.

(iii) the Secretary of Energy shall conduct energy-effi-
cient technology activities of the United States car-
ried out by the Administrator during the absence or dis-
ability of the Administrator.

(iii) TRANSFER OF FUNCTIONS.— (A) DEFINITION OF FUNCTION.—In this para-
graph, the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(B) TRANSFER OF FUNCTIONS.—(i) IN GENERAL.—There are transferred to the Administrator—

(I) all functions previously exercised by the Assistant Secretary of Energy for Ef-

ciency and Renewable Energy; and

(ii) all authority to promulgate regula-
tions relating to fuel efficiency previously exercised by the Department of Transpor-
tation.

(iii) DETERMINATION OF FUNCTIONS.—The Director of the Office of Management and Budget shall determine the functions that are transferred under clause (i).

(C) PRESIDENTIAL TRANSFERS.—(i) IN GENERAL.—The President, until the date that is 4 years after the date of enact-

ment of this Act, may transfer to the Adminis-
istrator—

(I) any function of any other department or agency of the United States, or of any of-

fer or organizational entity of any depart-
ment or agency, that relates primarily to the duties of the Administrator under this section;

(ii) any records, property, personnel, and

funds that are necessary to carry out that function.

(ii) REPORTS.—The President shall submit to Congress a report that describes the na-
ture and effect of any transfer made under clause (i).

(A) ABOLISHMENT OF OFFICE.—The Office of Energy Efficiency and Renewable Energy of the Department of Energy is abolished.

(B) TRUST FUND.—(i) IN GENERAL.—The Administrator shall—

(I) plan, direct, and conduct energy-effi-
cient technology activities; and

(ii) provide for the widest appropriate dis-
semination of information concerning the activities of the Administrator and the re-

sults of those activities.

(iii) OBJECTIVES.—The energy-efficient tech-

ology activities of the United States carried

out by the Administrator shall—

(i) improve the energy efficiency of any

sector of the economy, including the trans-
portation, building design, electrical genera-
tion, appliance, and power transmission sec-
tors.

(ii) provide for the widest appropriate dis-
semination of information concerning the activities of the Administrator and the re-

sults of those activities.

(iii) IDENTIFICATION OF MECHANISMS.—The Administrator shall identify mech-

anisms to introduce energy-efficient technologies into the

marketplace.

(iv) STUDIES.—(A) IN GENERAL.—The Administrator shall—

(I) the potential benefits gained, such as environmental protection, increasing energy
independence, and reducing costs to consumers; and

(ii) the problems involved in the development and use of energy-efficient technologies.

(v) The most effective use of the scientific resources of the United States, with close cooperation among all interested agencies of the United States, and duplication of effort, facilities, and equipment.

(e) POWERS.—The Administrator shall—

(1) not later than 180 days after the date of enactment of this Act, submit to Congress a personnel plan for the Administration that—

(A) specifies the initial number and qualifications of employees needed for the Administration;

(B) describes the funds and General Service classification and pay rates of the initial employees; and

(C) specifies how the Administrator will adhere to or deviate from the civil service system;

(2) appoint and fix the compensation of such officers and employees as are necessary to carry out the functions of the Administration;

(3) establish the entrance grade for scientific personnel without previous service in the Federal Government at a level up to 2 grades higher than the grade provided for such personnel in the General Schedule (within the meaning of section 5304 of title 5, United States Code) and fix the compensation of, and professionally and technically qualified, and such other real and personal property as the Administrator determines to be necessary for the performance of the functions of the Administration;

(4) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary in the performance of the duties of the Administrator with any—

(A) agency or instrumentality of the United States;

(B) State, Territory, or possession;

(C) political subdivision of any State, Territory, or possession; or

(D) person, firm, association, corporation, or educational institution;

(6)(A) with the consent of Federal and other agencies, with or without reimbursement, use the services, equipment, personnel, and facilities of those agencies; and

(B) cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities; and

(7) establish within the Administration such offices and procedures as the Administrator considers appropriate to provide for the greatest possible coordination of the activities of the Administration with related scientific and other activities of other public and private agencies and organizations.

(f) ORGANIZATIONAL STRUCTURE.—

(1) POLICY ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There is established in the Administration a Policy Advisory Committee.

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Advisory Committee shall be composed of 12 members, of whom—

(I) 4 members shall be representatives of—

(aa) industries involved in the generation, transmission, or distribution of energy products or (bb) the transportation industry; and

(II) 4 members shall be representatives of the scientific and university research community;

(iii) APPOINTMENT.—The Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate shall each appoint 1 member described in subclauses (I), (ii), and (iii) of clause (i).

(C) DUTIES.—The Advisory Committee shall—

(i) act as a steering committee for the Administration; and

(ii) for the long-term strategy for—

(I) achieving the mission of the Administration under subsection (d)(2); and

(II) identifying energy-efficient technologies and initiatives that—

(aa) have the potential to increase energy efficiency over the long term; and

(bb) should be further explored by the Administration.

(D) STAFF.—The Advisory Committee may appoint not more than 24 employees to assist in carrying out the duties of the Advisory Committee.

(i) 8 shall report to the members appointed under subparagraph (B)(i)(I);

(ii) 8 shall report to the members appointed under subparagraph (B)(i)(II); and

(iii) 8 shall report to the members appointed under subparagraph (B)(i)(III).

(E) FACILITATION.—The Advisory Committee Act (5 U.S.C. App.) shall apply to the Advisory Committee.

(2) OFFICE OF ADMINISTRATION.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Administration.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—

The Office of Administration shall be an Assistant Deputy Administrator for Administration, to be appointed by the Administrator.

(C) PUBLIC INFORMATION DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration a Public Information Division.

(ii) DUTIES.—The Public Information Division shall serve as a liaison between the Administration, the public, and other entities.

(D) ENERGY EFFICIENCY ECONOMICS DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Energy Efficiency Economics Division.

(ii) STAFF.—The Energy Efficiency Economics Division shall be composed of economists and individuals with expertise in energy market behavior, and the economic impacts of energy policy

(iii) DUTIES.—The Energy Efficiency Economics Division shall study the effects of existing and proposed energy-efficient technologies on the economy of the United States, with an emphasis on assessing—

(I) the impacts of those technologies on consumers and other market participants;

(II) the contributions of those technologies on the economic development of the United States.

(E) INCENTIVES DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Incentives Division.

(ii) DUTIES.—The Incentives Division shall—

(I) conduct a study of economic incentives that would assist the Administration in—

(aa) developing energy-efficient technologies; and

(bb) introducing those technologies into the marketplace; and

(II) submit a report on the results of the study conducted under clause (i).

(F) EDUCATION DIVISION.—

(i) ESTABLISHMENT.—There is established in the Office of Administration an Education Division.

(ii) DUTIES.—The Education Division shall provide—

(I) to the public, information concerning—

(aa) how to conserve energy, including the most effective use of the scientific and university research community—

(bb) the most effective use of the scientific and university research community—

and

(II) provide to building owners, engineers, contractors, and other businesspersons training in energy-efficient technologies.

(G) LEGISLATIVE COUNSEL DIVISION.—There is established in the Office of Administration a Legislative Counsel Division to provide legal assistance to the Administrator.

(3) OFFICE OF POLICY, RESEARCH, AND DEVELOPMENT.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Policy, Research, and Development to establish the organizational structure of the Administration relative to the project development and engineering activities of the Administration.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—

The head of the Office of Policy, Research, and Development shall be an Assistant Deputy Administrator for Policy, Research, and Development, to be appointed by the Administrator.

(C) POWERS.—In establishing the organizational structure under subparagraph (A), the Office of Policy, Research, and Development may—

(i) incorporate a flat organizational structure comprised of project-based teams;

(ii) focus on accelerating the development of energy-efficient technologies during the period from fundamental research to implementation;

(iii) coordinate with the private sector; and

(iv) adopt organizational models used by other Federal agencies conducting advanced research.

(4) OFFICE OF VENTURE CAPITAL.—

(A) ESTABLISHMENT.—There is established in the Administration an Office of Venture Capital.

(B) ASSISTANT DEPUTY ADMINISTRATOR.—

The head of the Office of Venture Capital shall be an Assistant Deputy Administrator for Venture Capital, to be appointed by the Administrator.

(C) DUTIES.—The Office of Venture Capital shall—

(i) accept applications from companies requesting financial assistance for energy-efficient technology proposals;

(ii) accept recommendations and input from the Deputy Administrator and the Policy Advisory Committee on applications submitted under clause (i); and

(iii) from among the applications submitted under clause (i), award financial assistance to applicants to carry out the proposals that are most likely to improve energy efficiency.

(g) INITIAL TECHNOLOGY SOLICITATIONS.—

(I) IN GENERAL.—The Administrator may, based on the criteria described in paragraph (2), initiate the development of technologies for—

(A) fuel-efficient tires;

(B) construction of a hydrogen infrastructure;

(C) high-temperature superconducting cable;

(D) improved switches, resistors, capacitors, software, and smart meters for electrical transmission systems;

(E) combined heat and power;

(F) micro turbines; and

(G) fuel cells;
section to develop the technologies under paragraph (1), the Administrator shall consider—
(A) the current status of development of the technology;
(B) the potential for widespread use of the technology in commercial markets;
(C) the time and costs of efforts needed to bring the technology to full implementation; and
(D) the potential of the technology to contribute to the goals of the Administration.
(3) REPORT.—As soon as practicable after the date of enactment of this Act, not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report that—
(A) assesses the potential for the technologies described in paragraph (1) to contribute to the goals of the Administration; and
(B) describes the plans of the Administration to develop the technologies under paragraph (1).
(4) REPORTS.—
(1) BY THE ADMINISTRATOR.—(A) Not later than two years after the date of enactment of this Act, the Secretary shall complete a report that describes the activities and accomplishments of the Administrator.
(B) BY THE PRESIDENT.—(A) Not later than in a year of each year, the President shall submit to Congress a report that includes—
(i) a description of the activities and accomplishments of all agencies of the United States in the field of energy efficiency during the preceding calendar year;
(ii) an evaluation of the activities and accomplishments of the Administrator in attaining the objectives of this section; and
(C) such recommendations for additional legislation as the Administrator or the President considers appropriate for the attainment of the objectives described in this section.
(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—
(1) $5,000,000,000 for fiscal year 2009;
(2) $6,000,000,000 for fiscal year 2010;
(3) $7,000,000,000 for each of fiscal years 2011 and 2012;
(4) $9,000,000,000 for each of fiscal years 2013 and 2014.

SA 1507. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 151. NATURAL GAS LIQUIDS.
(a) DEFINITIONS.—In this section:
(1) COMMISSION.—The term ‘‘Commission’’ means the Federal Energy Regulatory Commission.

SA 1508. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 5. — REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696.
(a) DEFINITIONS.—
(1) COMMISSION.—The term ‘‘Commission’’ means the Federal Energy Regulatory Commission.

SEC. 4. — PLAN FOR TRANSFER OF WESTERN NEW YORK SERVICE CENTER.

Not later than the date that is 1 year after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the President of the New York State Energy Research and Development Authority, develop and submit to Congress a plan for the transfer of the Western New York Service Center, the extraction authority (including the extraction of liquefiable hydrocarbons in quantities that are sufficient for energy credits or similar benefits.

SA 1509. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 152. — PROTECTION FROM ECONOMIC LOSS. —To the maximum extent practicable, the Commission shall, in accordance with regulations promulgated under this subsection, provide for the protection of a transporter of natural gas described in paragraph (2) from any economic loss suffered by the transporter as a result of the requirement that the natural gas contained in the transporter be subject to the extraction of excess liquefiable hydrocarbons described in paragraph (2).
that assesses the impact that the establishment of a national net metering and generating facility interconnection standard would have on:

(i) a lack of electric generating resource diversity;
(ii) air quality;
(iii) national energy security;
(iv) transmission system congestion relief; and
(v) customer alternatives for electricity supply.

(ii) A NNUAL REPORTS ON STANDARDS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to Congress a report on State net metering and interconnection standards that—

(I) compares the State standards with any national standards;
(ii) assesses the compliance of individual utilities with applicable standards; and
(iii) includes a list of preapproved systems and equipment that would be subject to a national net metering and generating facility interconnection standard described in clause (i), taking into consideration State input and all applicable standards of the Department of Energy.

SA 1510. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

On page 433, between lines 8 and 9, insert the following:

SEC. 113. CONNECTION OF STATIONARY FUEL CELLS TO ELECTRICITY GRIDS.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall develop and implement a schedule for the connection of stationary fuel cells to electricity grids throughout the United States.

(b) Quantity of Fuel Cells.—The plan and implementation schedule shall provide for the connection in accordance with subsection (a) of at least—

(1) 50,000 stationary fuel cells by January 1, 2010; and
(2) 1,000,000 stationary fuel cells by January 1, 2020.

SA 1511. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

On page 90, between lines 15 and 16, insert the following:

Subtitle D—Miscellaneous

SEC. 117. STRATEGIC PETROLEUM RESERVE DRAWDOWN AUTHORITY

Section 324(c) of the Energy Policy and Conservation Act (42 U.S.C. 6244(d)(2)) is amended—

(1) by striking “(A) an emergency” and inserting “(A) emergency;”
(2) by striking “(B) a severe’” and inserting “(ii) a severe’;
(3) by striking “(C) such price’” and inserting “(C) such price;”
(4) by striking “economy’” and inserting “economy;” and
(5) by adding at the end the following:

(B) a request for a drawdown on the Strategic Petroleum Reserve.

SA 1512. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

At the end of title I, add the following:

Subtitle D—Miscellaneous

SEC. 117. FINGER LAKES NATIONAL FOREST

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) all forms of appropriation, or disposal under the public land laws; and
(2) disposition under all laws relating to oil and gas leasing.

SA 1513. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table, as follows:

On page 466, after line 22, add the following:

Subtitle D—Miscellaneous

SEC. 117. TRANSMISSION FACILITIES CROSSING STATE BOUNDARIES

(a) Purpose.—The purpose of this section is to encourage the completion but unused or underused electric transmission facilities that cross the boundary between 2 States if such use would, without additional construction or significant adverse environmental impact, add electric transfer capability for the benefit of areas that are subject to risk of electricity shortages, outages, or curtailment under reasonably anticipated conditions.

(b) Amendment.—Section 202 of the Federal Power Act (16 U.S.C. 824a) is amended by adding at the end the following:

(III) includes a list of preapproved systems and equipment that would be subject to a national net metering and generating facility interconnection standard described in clause (i), taking into consideration State input and all applicable standards of the Department of Energy.

SEC. 118. PORT OF HIGHLY ENRICHED URANIUM REGULATIONS

(a) FINDINGS.—Congress finds that—

(1) the prevention of the proliferation of weapons-grade or highly enriched uranium has taken on an enhanced level of importance, given that evidence has been clearly and repeatedly presented that terrorist groups and hostile regimes have sought to acquire highly enriched uranium and associated technologies for the purpose of developing nuclear weapons;

(2) terrorist entities do not distinguish between highly enriched uranium intended for medical use versus other uses when seeking to acquire material for nuclear weapons and radiological dispersal devices;

(3) the terrorist attacks of September 11, 2001, clearly demonstrated that terrorist organizations are capable of carrying out attacks against the United States that are more sophisticated, coordinated, and destructive than was previously thought possible or likely;

(4) a successful terrorist attack against the United States using a nuclear weapon or radiological dispersal device could result in catastrophic loss of life, environmental damage, and economic consequences;

(5) increasing exports, transmissions, and volumes of highly enriched uranium will consequently increase the possibility that such material will be lost, diverted, stolen, or improperly sold;

(6) regulations in effect on the date of enactment of this Act are designed to apply explicitly to materials used in isotope production;

(7) the regulations were promulgated for the purpose of encouraging research reactors and medical isotope producers to switch from highly enriched uranium to low-enriched uranium fuels and targets, thereby decreasing the risk of weapons grade material being lost, diverted, stolen, or improperly sold;

(8) under the regulations, operators of research reactors and medical isotope manufacturers must commit to transitioning from highly enriched uranium to low-enriched uranium in order to continue receiving highly enriched uranium fuel and targets from the United States;

(9) a repeal of the regulations would unnecessarily weaken anti-proliferation efforts and reduce safeguards for highly enriched uranium;

(10) the regulations place access to a reliable and sufficient supply of medical isotopes in jeopardy;

(11) no foreign isotope producer has been denied a request for exports of highly enriched uranium so long as a producer has agreed to continue cooperating with the requirement to eventually shift to low-enriched uranium;

(12) the regulations have been successful in enticing 3 of Europe’s 4 main highly enriched...
uranium fueled reactors to pledge that the reactors will be converted to low-enriched uranium, influencing the construction of a new, large low-enriched uranium reactor in France, and influencing facilities in Australia, Indonesia, and Argentina to convert to low-enriched uranium;

(13) without the regulations, foreign isotope producers would likely abandon efforts to convert to low-enriched uranium, thereby increasing the risks associated with proliferation and nuclear terrorism;

(14) a significant amount of low-enriched uranium is already used in the production of isotopes, clearly demonstrating that there is no technological barrier to effective low-enriched uranium use; and

(15) there has been growing concern regarding the ability to safeguard highly enriched uranium supplies at medical isotope production facilities and research reactors in more than 50 countries worldwide.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) there is no compelling need to repeal highly enriched uranium export regulations in effect on the date of enactment of this Act;

(2) efforts to repeal the regulations needlessly create an additional threat to the national security of the United States; and

(3) Congress should take no steps to repeal the regulations.

SA 1515. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection 8 of title VII, add the following:

SEC. 7. MOTOR VEHICLE TIRES SUPPORTING FUEL EFFICIENCY.

(a) STANDARDS FOR TIRES MANUFACTURED FOR INTERSTATE COMMERCE.—Section 30232 of title 49, United States Code, is amended—

(1) by inserting after the first sentence the following: “The grading system shall include standards for rating the fuel efficiency of tires designed for use on passenger cars and light trucks.”;

(2) by adding at the end the following:

“(d) NATIONAL TIRE FUEL EFFICIENCY PROGRAM.—(1) The Secretary shall develop and carry on tire fuel efficiency programs for tires designed for use on passenger cars and light trucks.

(2) The program shall include the following:

“(A) Policies and procedures for testing and labeling tires for fuel economy to enable tire buyers to make informed purchasing decisions.

“(B) Policies and procedures to promote the purchase of energy-efficient replacement tires, including purchase incentives, website listing, advertising in print and online, printed fuel economy guidebooklets, and mandatory requirements for tire retailers to provide tire buyers with fuel-efficiency information on tires.

“(C) Minimum fuel economy standards for tires, promulgated by the Secretary.

“(3) The minimum fuel economy standards for tires shall—

“(A) ensure that the fuel economy of replacement tires is equal to or better than the average fuel economy of tires sold as original equipment;

“(B) be based on the maximum technically feasible and cost-effective fuel savings;

“(C) not adversely affect tire safety;

“(D) not adversely affect the average tire life of the tire; and

“(E) incorporate the results from—

“(i) laboratory testing; and

“(ii) to the extent appropriate and available, on-road fleet testing programs conducted by the manufacturers; and

“(F) not adversely affect efforts to manage scrap tires.

“(4) The policies, procedures, and standards developed under paragraph (2) shall be based on the tire manufacturers of tires that are certificated to meet the fuel economy standards under section 575.104 of title 49, Code of Federal Regulations (or any successor regulations), and shall be subject to the same review process as the national tire fuel efficiency program regulations under section 575.104 of title 49, Code of Federal Regulations (or any successor regulations), as meeting applicable emission standards.

“(5) Not less often than every three years, the Secretary shall review the minimum fuel economy standards in effect for tires under paragraph (2) and the fuel economy standards as necessary to ensure compliance with requirements under paragraph (3). The Secretary may not, however, reduce the average fuel economy standards applicable to replacement tires.

“(6) Nothing in this chapter shall be construed to preempt any provision of State law relating to higher fuel economy standards applicable to replacement tires designed for use on passenger cars and light trucks.

“(7) Nothing in this chapter shall apply to—

“(A) a tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually.

“(B) a deep tread, winter-type snow tire, space-saver tire, or temporary use spare tire;

“(C) a tire with a normal rim diameter of 12 inches or less;

“(D) a motorcycle tire; or

“(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

“(8) In this subsection, the term ‘fuel economy,’ with respect to tires, means the extent to which the fuel economy of the motor vehicles on which the tires are mounted.

“(b) CONFORMING AMENDMENT.—Section 30233(b) of title 49, United States Code, is amended in paragraph (1) by striking “When” and inserting “Except as provided in section 30232(d) of this title, when.”

“(c) TIME FOR IMPLEMENTATION.—The Secretary of Transportation shall ensure that the national tire fuel efficiency program required under subsection (d) of section 30232 of title 49, United States Code (as added by subsection (a)(2)), is administered so as to apply the requirements of title 49, section 30103(b) of title 49, United States Code, is applied so as to apply the policies, procedures, and standards developed under paragraph (2) of such subsection (d) beginning not later than March 31, 2006.

SA 1516. Mr. BINGAMAN submitted an amendment intended to be proposed by him to amendment SA 1432 proposed by Mr. GRISWT to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, strike section 715 and insert the following:

SEC. 715. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term “advanced truck stop electrification system” means a stationary and independent electrification system that delivers heat, electricity, communications, and other convenient services, and is capable of providing reliable, and verified audit of use of those services, to the occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term “auxiliary power unit” means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator of the Environmental Protection Agency under part 89 of title 40, Code of Federal Regulations (or successor regulations), as meeting applicable emission standards.

(4) IDLE REDUCTION TECHNOLOGY.—The term “idle reduction technology” means an advanced truck stop electrification system, auxiliary power unit, or another device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the deflection of engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(5) LONG-DURATION IDLING.—In general.—The term “long-duration idling” means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(6) EXCLUSIONS.—The term “long-duration idling” does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to develop whether the models accurately reflect emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology and complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A)(i) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(ii) and (B)(ii) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(c) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.
TITLES

SEC. 310. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOMBASED ENERGY TECHNOLOGIES AND PRODUCTS.

(a) In General. — The Biomass Research and Development Act of 2000 (7 U.S.C. 7502 note; Public Law 106-224) is amended—

(1) by redesignating sections 310 and 311 as sections 311 and 312, respectively; and

(2) by inserting after section 309 the following:

SEC. 310. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOMBASED ENERGY TECHNOLOGIES AND PRODUCTS.

(a) Purposes. — The purposes of the programs established under this section are—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies; and

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies.

(b) Definitions. —

(1) Land-grant colleges and universities. — The term 'land-grant colleges and universities' means—

(i) Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

(ii) 1890 Institutions (as defined in section 2 of that Act); and

(iii) 1862 Institutions (as defined in section 2 of that Act).

(c) Secretary. — The term 'Secretary' means the Secretary of Energy.

(d) Establishment. — To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

(i) The Secretary shall provide grants to sun grant centers specified in subsection (d)(1); and

(ii) The sun grant centers shall use the grants in accordance with this section.

(e) Grants to Centers. —

(1) In General. — The Secretary shall use amounts made available for a fiscal year under subsection (i) to provide a grant to each of the following sun grant centers:

(A) North-Central Center. — A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(B) Southeastern Center. — A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

(i) the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

(ii) the Commonwealth of Puerto Rico; and

(iii) the United States Virgin Islands.

(C) South-Central Center. — A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(D) Western Center. — A western sun grant center at Oregon State University for the region composed of the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

SEC. 311. COVERAGE UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITY OR BERYLLIUM VENDOR FACILITY DURING PERIOD OF RESIDUAL CONTAMINATION.

(a) Atomic Weapons Employees. — Paragraph 309(b) of title 10 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7381) is amended to read as follows:

(2) by inserting after section 315(b)(4)(A)(i) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384) the following:

(D) Beryllium Employees. — (1) Beryllium employees shall provide proof (through demonstration with the Administrator, shall compromise a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(2) Vehicle weight exemption. — (B) Authorization of Appropriations. — There are authorized to be appropriated to the Administrator such sums as are necessary to carry out subparagraph (A).

(5) Determination.

(A) In General. — Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) Deadline for completion. — Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the study. The Secretary shall—

(i) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(ii) by adding at the end the following:

(12) HEAVY-DUTY VEHICLES.

(ii) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(ii) by adding at the end the following:

(12) HEAVY-DUTY VEHICLES.

(i) the idle reduction technology is fully functional at all times; and

(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."

SA 1517. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, between lines 14 and 15, insert the following:

SEC. 4. COVERAGE UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITY OR BERYLLIUM VENDOR FACILITY DURING PERIOD OF RESIDUAL CONTAMINATION.

(a) Atomic Weapons Employees. — Paragraph 309(b) of title 10 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7381) is amended to read as follows:

(2) by inserting after section 315(b)(4)(A)(i) of the National Defense Authorization Act for Fiscal Year 2002 (42 U.S.C. 7384) the following:

(D) Beryllium Employees. — (1) Beryllium employees shall provide proof (through demonstration with the Administrator, shall compromise a study to analyze all locations at which heavy-duty vehicles stop for long duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) Deadline for completion. — Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the study. The Secretary shall—

(i) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(ii) by adding at the end the following:

(12) HEAVY-DUTY VEHICLES.

At the end, add the following:
...
percentages relative to the peak demand and electricity used in that year by the retail electric supplier’s customers:

\[
\text{Reduction in demand in kWh} = \frac{\text{Demand savings in kWh}}{125}
\]

\[
\text{Reduction in use in kWh} = \frac{\text{Demand savings in kWh}}{125}
\]

“(c) For purposes of this section, savings shall be counted only for measures installed after January 1, 2003.

(d) The Secretary of Energy is directed to establish procedures and standards for counting and independently verifying energy and demand savings calculations for purposes of enforcing the energy efficiency performance standards imposed by this section. Such rule shall also include procedures and a schedule of reporting findings to the Department of Energy and for making such reports available to the public. The Secretary shall consult with the association representing the nation’s public utility regulators, and with the association representing the nation’s state energy officials in developing these procedures and standards. This rulemaking shall be completed no later than June 30, 2004.

“(e) By June 30, 2006, and every two years thereafter, each retail electric supplier shall file with the state public utilities commission in each state in which it supplies service to retail customers, a report demonstrating that it has taken action to comply with the energy efficiency performance standards of this section. These reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary. A state public utilities commission may accept such report as filed, or may review and investigate the accuracy of the report. Each state public utilities commission shall make findings on any deficiencies relative to the requirements in section 2, and shall create a remedial order for the correction of any deficiencies that are found.

(f) Electric retail suppliers not subject to the jurisdiction of state public utilities commissions shall report to their governing bodies. Such reports shall include independent verification of the estimated savings pursuant to standards established by the Secretary.

(g) Electric retail suppliers may demonstrate compliance with this section, in whole or in part, by savings achieved through participation in statewide, regional, or national programs that can be demonstrated to significantly improve the efficiency of electric distribution and use. Verified efficiency savings resulting from such programs may be assigned to each participating retail supplier based upon their degree of participation in such programs. Electric retail suppliers may also purchase rights to extra savings achieved by other electric retail suppliers, provided that the selling supplier does not also take credit for those savings.

“(h) In the event that any retail electric supplier fails to achieve its energy savings and/or load reduction targets for a specific year, any aggrieved party may enter suit and seek prompt remedial action before the state public utilities commission or the appropriate regulatory authority. Any retail electric supplier not subject to state public utility commission jurisdiction. The state public utilities commission or other appropriate regulatory authority shall have a maximum of one year to craft a remedy. However, if a public utilities commission or other governing body certifies that it has inadequate resources or authority to promptly resolve enforcement actions under this section, or fails to take action within the time period specified above, an aggrieved party may seek relief in a Federal district court. If a commission or court determines that energy savings and/or load reduction targets for a specific year have not been achieved, the commission or court shall determine the amount of the deficit and shall fashion an equitable remedy to restore the lost savings as soon as practicable. Such remedies may include a refund to retail electric customers of an amount equal to the average retail rate multiplied by the deficit in kW and/or kWh, and the appointment of a special master to administer a bidding system to procure the energy and demand savings equal to 125% of the deficit.

SA 1523. Mr. Jeffords submitted an amendment intended to be proposed to amendment SA 1412 proposed by Mr. Domenici (for himself, Ms. Landreiu, Mr. Thomas, Ms. Murkowski, Mr. Campbell, Mr. Smith, Mr. Alexander, Mr. Ky, Mr. Thompson of Nebraska, Mr. Hagel, Mr. Talent, Mr. Bunning, and Mr. Coleman) to the bill S. 14 to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, after line 7, insert the following:

Subtitle I—System Benefits

SEC. 1192. SYSTEM BENEFITS FUND.

(a) Definitions.—For purposes of this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term “Board” means the Board established under this section.

(3) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(4) FUND.—The term “Fund” means the System Benefits Trust Fund established by this section.

(5) RENEWABLE ENERGY.—The term “renewable energy” means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), or biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic source. For purposes of this subparagraph, a farm system is an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste produced by farming that is located on the farm where substantially all of the waste used is produced.

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

(c) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund Board to carry out the functions and responsibilities described in this section.

(d) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission;

(B) 2 representatives of the Secretary of Energy appointed by the Secretary of Energy;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissioners and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer Advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person nominated by the National Energy Assistance Directors Association and appointed by the Secretary;

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at one or more financial institutions, which account or accounts shall be known as the System Benefits Trust Fund consisting of amounts deposited in the Fund under subsection (d).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States;

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUND.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs relating to—

(A) energy conservation and efficiency;

(b) renewable energy sources;

(c) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, matching funds distributed to the States and Indian tribes shall be reduced by an amount that is proportionate to each State’s annual consumption of electricity compared to the Nation’s aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds distributed to the Fund for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall require eligibility criteria for public benefits programs funded under this section for approval by the Secretary of Energy.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2002, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how System Benefits Trust Fund funds from the previous calendar year (if any) were spent by the State and what the State accomplished as a result of these expenditures.

(e) WIRES CHARGE.—
SA 1525. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 19 strike line 7 and all that follows through page 21, line 16, and insert:

(a) ADOPTION OF STANDARD.—At the end of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) add the following: 

"TITLE NET METERING

SEC. 3. NET METERING STANDARDS.

"(a) REQUIREMENT TO PROVIDE SERVICE.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves in accordance with this section.

"(b) ESTABLISHMENT OF STANDARDS.—Net metering service under this section shall be provided in accordance with the following standards:

"(1) AN ELECTRIC UTILITY.—The electric utility shall not 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.

"(2) 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 owner or operator of the on-site generating facility. The electric utility shall provide the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of the on-site generating facility during a billing period in accordance with reasonable metering practices.

"(3) 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—

"(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period;

"(B) the owner or operator of the on-site generating facility shall deduct from the excess kilowatt-hours generated during the billing period, the kilowatt-hour credit appearing on the bill for the following billing period.

"(C) An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and net metering system net metering systems that the Commission determines are necessary to protect public safety and system reliability.

"(D) Definitions.—For purposes of this section:

"(1) the term ‘eligible on-site generating facility’ means a facility on the site of a residential electric consumer with a maximum
generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

(2) for a term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

(3) the term 'high efficiency system' means fuel cells or combined heat and power.

(4) the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer at a metered on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

SA 1528. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14 to enhance the security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 165 after line 14 insert—

(d) Subsection 15(a)(3) of the Federal Power Act (16 U.S.C. 808(a)(3)) is amended by adding the following at the end thereof: "Annual licenses shall contain such terms and conditions appropriate for the duration of the annual license which are identified by the Secretary of the Interior and the Secretary of Agriculture as necessary for the protection and utilization of the reservation within which the project is located; by the Secretary of the Interior and the Secretary of Commerce for the protection and enhancement of the environment, including related spawning grounds and habitat; and by the Governor of the State in which the project is located for compliance with water standards and other legal requirements for beneficial uses of affected water. The terms of any new license for a project shall be reduced by one year for each annual license issued for such project."

SA 1529. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 14 to enhance the security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 114, add the following:

SEC. 114. RISK-BASED DATA MANAGEMENT SYSTEMS.

(a) In general.—The Secretary of Energy shall make grants to the Ground Water Protection Council to develop risk-based data management systems.

(b) Report.—Not later than sixty days after the end of each fiscal year, the Ground Water Protection Council shall report to the Secretary on the progress in developing risk-based data management systems and on any other functions or activities undertaken including the identification of any other individuals or entities that receive secondary grants, using funds provided under this section.

(c) Authorization of appropriations.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal years 2004-2007.

SA 1530. Mr. JEFFORDS (for himself, Mr. KERRY, Mr. REID, Mr. DURBIN, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 467, after line 16, add the following:

Subtitle I—Renewable Portfolio Standard

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a et seq.) is amended by adding at the end the following:

"SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

"(a) RENEWABLE ENERGY REQUIREMENTS.—

"(1) IN GENERAL.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier’s total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

"(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for up to two years.

"(b) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier in a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

<table>
<thead>
<tr>
<th>Calendar years: each year</th>
<th>Percentage of Renewable energy each year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-2009</td>
<td>5</td>
</tr>
<tr>
<td>2010-2015</td>
<td>10</td>
</tr>
<tr>
<td>2016-2019</td>
<td>15</td>
</tr>
<tr>
<td>2020 and subsequent years</td>
<td>20</td>
</tr>
</tbody>
</table>

"(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

"(1) IN GENERAL.—To meet the requirements under subsection (a), a retail electric supplier shall submit to the Secretary either:

"(A) renewable energy credits issued to the retail electric supplier under subsection (e);

"(B) renewable energy credits obtained by purchase or exchange under subsection (f);

"(C) renewable energy credits purchased from the United States under subsection (g); or

"(D) any combination of credits under subsections (e), (f), or (g).

"(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (a) only once.

"(D) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this Act, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

"(b) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

"(1) IN GENERAL.—Under the program established in subsection (d), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

"(2) APPLICATION.—An application for the issuance of renewable energy credits shall include—

(A) the type of renewable energy resource used to produce the electric energy;

(B) the State in which the electric energy was produced;

(C) any other information the Secretary determines appropriate.

"(c) CREDIT ELIGIBILITY.—

"(1) GENERAL.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource must be sold for retail consumption or used by the generator. If both a renewable energy resource and a non-renewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits on the proportion of the renewable energy resource used.

"(2) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type and date of generation.

"(d) SALE UNDER PURPA CONTRACT.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a-3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this Act for the duration of the contracts.

"(e) SALE OR EXCHANGE OF RENEWABLE ENERGY CREDITS.—A renewable energy credit may be sold or exchanged by the entity issuing the credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

"(f) PURCHASE FROM THE UNITED STATES.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the average market value of credits for the applicable compliance period of the previous calendar year following calendar year 2006, the Secretary shall adjust for inflation the price charged per credit for each calendar year.

"(g) STATE PROGRAMS.—Nothing in this section shall preclude any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

"(h) CONSUMER ALLOCATION.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (a). A retail electric supplier shall not represent to any consumer or prospective consumer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (a).

"(i) ENFORCEMENT.—A retail electric supplier that does not submit renewable energy credits as required under subsection (a) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.

"(j) INFORMATION.—The Secretary may collect the information necessary to verify and audit—
(i) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

(ii) the viability of renewable energy credits submitted by a retail electric supplier to the Secretary; and

(iii) the quantity of electricity sales of all retail electric suppliers.

(i) Voluntary Participation.—The Secretary may issue a renewable energy credit pursuant to subsection (e) to any entity not subject to the requirements of this Act only if the entity applying for such credit meets the terms and conditions of this Act to the same extent as entities subject to this Act.

(n) Definitions.—In this subsection, the term ‘biomass’ shall include—

(i) organic material from a plant that is growing outside any structure, including crop residue, woody material, and associated aquatic, agroforestry, and forest materials;

(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

(aa) forest-related resource, including—

(aa) mill and harvesting residue;

(bb) precommercial thinnings;

(cc) slash; and

(dd) brush;

(ii) agricultural resources, including—

(aa) orchard tree crops;

(bb) vineyards;

(cc) grains;

(dd) legumes;

(ee) sugar; and

(ff) other crop by-products or residues or

(iii) miscellaneous waste such as—

(aa) waste pallet;

(bb) brake; and

(cc) landscape or right-of-way tree trimming;

(iii) animal waste that is converted to a fuel through a directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

(ii) Exclusions.—The term ‘biomass’ shall not include—

(i) municipal solid waste that is incinerated;

(ii) recyclable post-consumer waste paper;

(iii) painted, treated, or pressurized wood;

(iv) wood contaminated with plastics or metals; or

(v) tires.

(ii) Distributed generation.—The term ‘distributed generation’ means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

(3) Incremental hydropower.—The term ‘incremental hydropower’ means additional hydropower generation achieved from increased efficiency after January 1, 2003, at a hydroelectric plant that was placed in service after January 1, 2003.

(4) Landfill gas.—The term ‘landfill gas’ means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal (42 U.S.C. 6901 et seq.).

(5) Renewable energy.—The term ‘renewable energy’ means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen that is produced from a renewable energy source.

(5) The term ‘renewable energy source’ means—

(A) wind;

(B) ocean waves;

(C) biomass;

(D) solar;

(E) landfill gas;

(F) incremental hydropower; or

(G) geothermal.

(6) Retail electric supplier.—The term ‘retail electric supplier’ means a person or entity that sells retail electricity to consumers for purposes other than resale during the preceding calendar year.

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

SA 1531. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In section 32 of the Outer Continental Shelf Lands Act (as added by section 111), strike subsections (c) and (d) and insert the following:

(c) Impact Assistance Payments to States and Political Subdivisions.—The Secretary shall make payments from the amounts available under this section to Producing Coastal States with an approved Coastal Impact Assistance Plan, and to coastal political subdivisions as follows:

(1) Of the amounts appropriated, the allocation for each Producing Coastal State shall be based on the ratio of the qualified Outer Continental Shelf revenues generated off the coastline of the Producing Coastal State to the qualified Outer Continental Shelf revenues generated off the coastlines of all Producing Coastal States for each fiscal year. Where there is more than one Producing Coastal State within 200 miles of a leased tract, the amount of each Producing Coastal State’s allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary, except that in Alaska, the funds for this element of the formula shall be divided equally among the two coastal political subdivisions. For purposes of the calculations under this clause, 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 on January 1, 2002, unless the lease was issued prior to the establishment of the moratorium and was in production on August 3, 2004.

(B) Of the allocable share of the State of Louisiana as determined under paragraph (1), the Secretary shall pay—

(i) 17.5 percent directly to coastal political subdivisions in the State of Louisiana in accordance with the formula described in clauses (i) through (iii) of subparagraph (A) to be used for—

(1) wetland protection and restoration;

(2) land and water conservation;

(3) flood control and drainage;

(4) wastewater treatment;

(5) parks and recreation; and

(6) bridge repair and replacement;

(ii) 17.5 percent to a coastal infrastructure restoration fund as determined by the State of Louisiana to be used for—

(1) barrier island restoration;

(2) wildlife and wetland research and education; and

(3) Atchafalaya Basin preservation;

(IV) State Land and Water Conservation Fund activities; and

(IV) coastal commerce and development.

(2) Any amount allocated to a Producing Coastal State or coastal political subdivision but not disbursed because of a failure to have an approved Coastal Impact Assistance Plan under this section shall be allocated equally by the Secretary among all other Producing Coastal States in a manner consistent with the subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this act. The Secretary may make the provisions of this paragraph and hold a Producing Coastal State’s allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Coastal Impact Assistance Plan.

(4) For purposes of this subsection, calculations of payments made through 2006 shall be made using qualified Outer Continental Shelf revenues received in
fiscal year 2003, and calculations of payments for fiscal years 2007 through 2009 shall be made using qualified Outer Continental Shelf revenues received in fiscal year 2003.

(b) COASTAL IMPACT ASSISTANCE PLAN. — The Governor of each Producing Coastal State shall prepare, and submit to the Secretary of Commerce, a Coastal Impact Assistance Plan. The Governor shall solicit local input and shall provide for public participation in the development of the plan. The plan shall be submitted to the Secretary by July 1, 2004. Amounts received from Producing Coastal States and coastal political subdivisions may be used only for the purposes specified in the Governor’s Coastal Impact Assistance Plan.

(c) A contact for each political subdivision and description of how coastal political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section;

(d) certification by the Governor that ample opportunity has been accorded for public participation in the development and revision of the plan; and

(e) measures for taking into account other relevant Federal resources and programs.

SEC. 48. MODIFICATION OF CREDIT FOR RESIDENTIAL WIND ENERGY PROPERTY. — (a) DEFINITION OF QUALIFIED WIND ENERGY PROPERTY. — Section 25C, as added by this Act, is amended by striking paragraph (5) of subsection (d) and inserting the following:

"(5) QUALIFIED WIND ENERGY PROPERTY. — The term ‘qualified wind energy property’ means a wind turbine—

(ii) $1,000 for each kilowatt of capacity of such property, including all necessary installation fees and charges, or

(iii) $1,000 for each kilowatt of capacity of such property.

(c) LIMITATION. — In general, any qualified wind energy 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—

(1) 30 percent of the basis of such property, including all necessary installation fees and charges, or

(2) $1,000 for each kilowatt of capacity of such property.

(d) ELECTIVE DATE. — The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 49. CREDIT FOR BUSINESS INSTALLATION OF SMALL WIND ENERGY PROPERTY. — (a) IN GENERAL. — Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (7) the following:

"(8) QUALIFIED WIND ENERGY PROPERTY. — For purposes of this subsection—

(1) the term ‘qualified wind energy property’ means a wind turbine—

(i) which carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and which is not installed by the taxpayer, and

(ii) which was installed on or in connection with a building (as defined in section 45(c)), a structure, improvement, or any qualified wind turbine that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

(2) the term ‘qualified wind energy property’ means a wind turbine—

(i) the original use of which begins to be used to generate electricity during the 12-month period that begins on the date of installation;

(ii) which is installed using special rules, as added by this Act, is amended by inserting ‘or the local energy grid’ after ‘after dwelling unit’.

(2) Paragraph (5) of section 25C(e) (relating to special rules), as added by this Act, is amended by inserting ‘or in the case of qualified wind energy property, the property has begun to be used to generate electricity’ before the period.

(c) ELECTIVE DATE. — The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 49C. CREDIT FOR COMMERCIAL INSTALLATION OF WAVE ENERGY PROPERTY. — (a) IN GENERAL. — Subsection (a) of section 48, as amended by this Act, is amended by striking paragraph (3), as amended by this Act, is amended by adding by inserting ‘or the local energy grid’ after ‘after dwelling unit’.
SEC. 715. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary and independent electrification system that delivers heat, air conditioning, electricity, and other ancillary services, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle, without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(b) IDLE REDUCTION TECHNOLOGY.

(1) I N GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.

(2) DEADLINE FOR COMPLETION.

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B); and

(ii) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

SEC. 716. CREDIT FOR BUSINESS INSTALLATION OF SMALL WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, (defining "Secretary") is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property installed before January 1, 2009;"

(b) QUALIFIED WIND ENERGY PROPERTY.—Subparagraph (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

(A) in general.—The term "qualified wind energy property" means a wind turbine—

(i) installed on or in connection with a facility (as defined in section 469C), a ranch, or an establishment of an eligible small business (as defined in section 44(b)) which is located in the United States and which is owned and used by the taxpayer;

(ii) the original use of which commences with the taxpayer, and

(iii) which carries for at least 5 year limited warranty covering defects in design, material, or workmanship, and, for any qualifying wind turbine that is not installed by the taxpayer, at least a 5 year limited warranty covering defects in installation.

(B) LIMITATION.—In the case of any qualified wind energy property placed in service during a taxable year the credits determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to—10 percent of the basis of such property, including all necessary installation fees and charges.

(C) QUALIFYING WIND TURBINE.—For purposes of this paragraph the term "qualifying wind turbine" means a wind turbine of 75 kilowatts of rated capacity or less which at the time of manufacture and not more than 1 year after the date of purchase meets the performance standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.

(D) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for any wind turbine which is not ordered to lie on the table; as follows:

At the end of title VII of division B, insert the following:

SEC. 1353. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary and independent electrification system that delivers heat, air conditioning, electricity, and other ancillary services, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle, without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(b) IDLE REDUCTION TECHNOLOGY.

(1) I N GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology that benefits strategic locations based on air quality and congestion considerations.

(2) DEADLINE FOR COMPLETION.

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B); and

(ii) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

SEC. 716. CREDIT FOR BUSINESS INSTALLATION OF SMALL WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, (defining "Secretary") is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (iv), and by inserting after clause (iv) the following new clause:

"(v) qualified wind energy property installed before January 1, 2009;"

(b) QUALIFIED WIND ENERGY PROPERTY.—Subparagraph (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

(A) in general.—The term "qualified wind energy property" means a wind turbine—

(i) installed on or in connection with a facility (as defined in section 469C), a ranch, or an establishment of an eligible small business (as defined in section 44(b)) which is located in the United States and which is owned and used by the taxpayer;

(ii) the original use of which commences with the taxpayer, and

(iii) which carries for at least 5 year limited warranty covering defects in design, material, or workmanship, and, for any qualifying wind turbine that is not installed by the taxpayer, at least a 5 year limited warranty covering defects in installation.

(B) LIMITATION.—In the case of any qualified wind energy property placed in service during a taxable year the credits determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to—10 percent of the basis of such property, including all necessary installation fees and charges.

(C) QUALIFYING WIND TURBINE.—For purposes of this paragraph the term "qualifying wind turbine" means a wind turbine of 75 kilowatts of rated capacity or less which at the time of manufacture and not more than 1 year after the date of purchase meets the performance standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.

(D) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for any
qualified wind energy property unless such property meets appropriate fire and electric code requirements.”

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended redesignating clause (ii) as clause (iii), by striking “and” at the end of clause (i), and by inserting after clause (i) the following new clause:

“(iii) in the case of qualified wind energy property, 10 percent, and”;

(d) CONFIRMING AMENDMENTS.—

(1) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(6)(C)” and inserting “section 48(a)(7)(C)”.

(2) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(6)(C)” and inserting “section 48(a)(7)(C)”.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 1537. Mr. Frist (for himself and Mr. Daschle) proposed an amendment to the bill H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes; as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Energy Policy Act of 2003”.

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. 203. Market-based rates.
Sec. 204. Repeal effective date.
Sec. 205. Open access transmission by certain utilities.
Sec. 206. Electric reliability standards.
Sec. 207. Market transparency rules.
Sec. 208. Access to transmission by intermittent generators.
Sec. 209. Enforcement.
Sec. 210. Electric power transmission systems.
Subtitle B—Amendments to the Public Utility Holding Company Act
Sec. 221. Short title.
Sec. 222. Definitions.
Sec. 223. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 224. Federal access to books and records.
Sec. 225. State access to books and records.
Sec. 226. Enforcement authority.
Sec. 227. Affiliate transactions.
Sec. 228. Applicability.
Sec. 229. Effect on other regulations.
Sec. 230. Enforcement.
Sec. 231. Savings provisions.
Sec. 232. Implementation.
Sec. 233. Transfer of resources.
Sec. 234. Intrasector agency review of competition in the wholesale and retail markets for electric energy.

Sec. 235. GAO study on implementation.
Sec. 236. Effective date.
Sec. 237. Authorization of appropriations.

Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978
Sec. 241. Real-time pricing and time-of-use metering standards.
Sec. 242. Adoption of additional standards.
Sec. 243. Technical assistance.
Sec. 244. Generation and small power production purchase, sale, and sale requirements.
Sec. 245. Net metering.

Subtitle D—Consumer Protections
Sec. 251. Information disclosure.
Sec. 252. Consumer privacy.
Sec. 254. Unfair trade practices.
Sec. 255. Applicable procedures.
Sec. 256. Federal Trade Commission enforcement.
Sec. 257. State authority.
Sec. 258. Apportionment of subtitle.
Sec. 259. Definitions.
Sec. 260. Renewable Energy and Rural Construction Grants
Sec. 261. Renewable energy production incentive.
Sec. 262. Assessment of renewable energy resources.
Sec. 263. Federal purchase requirement.
Sec. 264. Renewable portfolio standard.
Sec. 265. Renewable energy on Federal land.
Sec. 266. Sec. F—General Provisions
Sec. 271. Change 3 cents to 1.5 cents.
Sec. 272. Bonneville Power Administration administration.

TITLE III—HYDROELECTRIC RELICENSING
Sec. 301. Alternative conditions and fishways.
T I T LE IV—INDIAN ENERGY
Sec. 401. Comprehensive Indian energy program.
Sec. 402. Office of Indian Energy Policy and Programs.
Sec. 403. Conforming amendments.
Sec. 404. Siting energy facilities on tribal lands.
Sec. 405. Indian Mineral Development Act review.
Sec. 406. Renewable energy study.
Sec. 407. Federal Power Marketing Administration.
Sec. 408. Feasibility study of combined wind and hydropower demonstration project.

T I T LE V—NUCLEAR POWER
Subtitle A—Price-Anderson Act reauthorization
Sec. 501. Short title.
Sec. 502. Extension of indemnification authority.
Sec. 503. Department of Energy liability limit.
Sec. 504. Incidents outside the United States.
Sec. 505. Reports.
Sec. 506. Inflation adjustment.
Sec. 507. Civil penalties.
Sec. 508. Treatment of modular reactors.
Sec. 509. Effective date.
Subtitle B—Miscellaneous Provisions
Sec. 511. Uranium sales.
Sec. 512. Resolution of thorium recompense.
Sec. 513. Fast Flux Test Facility.
Sec. 515. Office of Spent Nuclear Fuel Research.
Sec. 516. Decommissioning pilot program.
Sec. 517. G—Energy of Nuclear Energy
Sec. 521. Combined license periods.
Subtitle D—NRC Regulatory Reform
Sec. 531. Anittrust review.
Sec. 532. Decommissioning.
Subtitle E—NRC Personnel Crisis
Sec. 541. Elimination of pension offset.
Sec. 542. NRC training program.
Sec. 782. Technical assistance for security of pipeline facilities.
Sec. 783. Criminal penalties for damaging or destroying a facility.

DIVISION C—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE VIII—FUels AND VEHICLES

Subtitle A—CAFE Standards, Alternative Fuels, and Advanced Technology
Sec. 801. Increased fuel economy standards.
Sec. 802. Expedited procedures for congressional increase in fuel economy standards.
Sec. 803. Revised considerations for decisions on maximum feasible average fuel economy.
Sec. 804. Extension of maximum fuel economy increase for alternative fueled vehicles.
Sec. 805. Procurement of alternative fueled and hybrid light duty trucks.
Sec. 806. Use of alternative fuels.
Sec. 807. Hybrid electric and fuel cell vehicles.
Sec. 808. Diesel fueled vehicles.
Sec. 809. Fuel cell demonstration.
Sec. 810. Bus replacement.
Sec. 811. Average fuel economy standards for pickup trucks.
Sec. 812. Exception to HOV passenger requirements for alternative fueled vehicles.
Sec. 813. Data collection.
Sec. 814. Green school bus pilot program.
Sec. 815. Fuel cell bus development and demonstration program.
Sec. 816. Authorization of appropriations.
Sec. 817. Temporary biodiesel credit expansion.
Sec. 818. Neighborhood electric vehicles.
Sec. 819. Credit for hybrid vehicles, dedicated alternative fuel vehicles, and infrastructure.
Sec. 820. Renewable content of motor vehicle fuel.
Sec. 820A. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.
Sec. 820B. Commercial byproducts from municipal solid waste loan guarantee program.

Subtitle B—Additional Fuel Efficiency Measures
Sec. 821. Fuel efficiency of the Federal fleet of automobiles.
Sec. 822. Idling reduction systems in heavy duty vehicles.
Sec. 823. Conserve By Bicycling program.
Sec. 824. Fuel cell vehicle program.
Sec. 825. Federal Reformed Fuels Program.

Subtitle C—Federal Energy Efficiency
Sec. 831. Short title.
Sec. 832. Leaking underground storage tanks.
Sec. 833. Authority for water quality protection from fuels.
Sec. 834. Elimination of oxygen content requirement for reformulated gasoline.
Sec. 835. Public health and environmental impacts of fuels and fuel additives.
Sec. 836. Analyses of motor vehicle fuel changes.
Sec. 837. Additional opt-in areas under reformed gasoline program.
Sec. 838. Federal enforcement of State fuels requirements.
Sec. 839. Fuel system requirements harmonization study.
Sec. 840. Review of Federal procurement initiatives relating to use of recycled products and fleet and transportation efficiency.

TITLE IX—ENERGY EFFICIENCY AND ASSISTANCE 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.
Sec. 902. State energy programs.
Sec. 903. Energy efficient schools.
Sec. 904. Low income community energy efficiency pilot program.
Sec. 905. Energy efficient appliance rebate programs.

Subtitle B—Federal Energy Efficiency
Sec. 911. Energy management requirements.
Sec. 912. Energy use measurement and accountability.
Sec. 913. Federal building performance standards.
Sec. 914. Procurement of energy efficient products.
Sec. 915. Repeal of energy savings performance contract sunset.
Sec. 916. Energy savings performance contract definitions.
Sec. 917. Review of energy savings performance contract program.
Sec. 918. Federal Energy Bank.
Sec. 919. Energy and water saving measures in congressional buildings.
Sec. 920. Increased use of recovered material in federally funded projects involving procurement of cement or concrete.

Subtitle C—Industrial Efficiency and Consumer Products
Sec. 921. Voluntary commitments to reduce industrial energy intensity.
Sec. 922. Authority to set standards for commercial buildings.
Sec. 923. Additional definitions.
Sec. 924. Additional test procedures.
Sec. 925. Energy labeling.
Sec. 926. Energy-efficient program.
Sec. 927. Energy conservation standards for central air-conditioners and heat pumps.
Sec. 928. Energy conservation standards for additional consumer and commercial products.
Sec. 929. Consumer education on energy efficient consumer products.
Sec. 930. Study of energy efficiency standards.

Subtitle D—Housing Efficiency
Sec. 931. Capacity building for energy efficient, affordable housing.
Sec. 932. Increase of CDBG public services cap for energy conservation and efficiency activities.
Sec. 933. FHA mortgage insurance incentives for energy efficient housing.
Sec. 934. Public housing capital fund.
Sec. 935. Grant of subsidies to energy conserving improvements for assisted housing.
Sec. 937. Capital fund.
Sec. 938. Energy-efficient appliances.
Sec. 939. Energy efficiency standards.
Sec. 940. Energy strategy for HUD.

Subtitle E—Rural and Remote Communities
Sec. 941. Short title.
Sec. 942. Findings and purpose.
Sec. 943. Definitions.
Sec. 944. Authorization of appropriations.
Sec. 945. Statement of activities and review.
Sec. 946. Eligible activities.
Sec. 947. Allocation and distribution of funds.
Sec. 948. Rural and remote community electrification grants.
Sec. 949. Additional authorization of appropriations.
Sec. 950. 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.

Subtitle B—Climate Change Strategy
Sec. 1011. Short title.
Sec. 1252. Nanoscale science and engineering research.
Sec. 1253. Advanced scientific computing for energy missions.
Sec. 1254. Fusion energy sciences program and planning.
Subtitle F—Energy, Safety, and Environmental Protection
Sec. 1261. Critical energy infrastructure protection research and development.
Sec. 1262. Research and demonstration for remediation of groundwater from energy activities.
Subtitle A—Department of Energy Programs
Sec. 1301. Department of Energy global change research.
Subtitle B—Department of Agriculture Programs
Sec. 1311. Carbon sequestration basic and applied research.
Sec. 1312. Carbon sequestration demonstration projects and outreach.
Sec. 1313. Carbon storage and sequestration accounting research.
Subtitle C—International Energy Technology Transfer
Sec. 1321. Clean energy technology exports program.
Sec. 1322. International energy technology deployment program.
Subtitle D—Climate Change Science and Information
PART I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990
Sec. 1332. Changes in definitions.
Sec. 1333. Change in committee name and structure.
Sec. 1334. Change in national global change research plan.
Sec. 1335. Integrated Program Office.
Sec. 1336. Research grants.
Sec. 1337. Evaluation of information.
PART II—NATIONAL CLIMATE SERVICES AND MONITORING
Sec. 1341. Amendment of National Climate Program Act.
Sec. 1342. Changes in findings.
Sec. 1343. Tools for regional planning.
Sec. 1344. Authorization of appropriations.
Sec. 1345. National Climate Service Plan.
Sec. 1346. International Pacific research and cooperation.
Sec. 1347. Reporting 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 measurement processes 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 adaption program.
Sec. 1372. Coastal vulnerability and adaptation.
Sec. 1373. Arctic research center.
PART II—FORECASTING AND PLANNING PILOT PROGRAMS
Sec. 1381. Remote sensing pilot projects.
Sec. 221. Treatment of persons not able to use entire credit.

Title XXIII—Oil and Gas Provisions

Sec. 2301. Oil and gas from marginal wells.

Sec. 2302. Natural gas from gathering lines treated as 7-year property.

Sec. 2303. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.

Sec. 2304. Environmental tax credit.

Sec. 2305. Determination of small refinery exception.

Sec. 2306. Marginal production income limit extension.

Sec. 2307. Amendment of geological and geophysical physical standards.

Sec. 2308. Amortization of delay rental payments.

Sec. 2309. Study of coal bed methane.

Sec. 2310. Extension and modification of credit for producing fuel from a non-conventional source.

Sec. 2311. Natural gas distribution lines treated as 15-year property.

Title XXIV—Electric Utility Restructuring Provisions

Sec. 2401. Ongoing study and reports regarding electricity restructuring.

Sec. 2402. Modifications to special rules for nuclear decommissioning costs.

Sec. 2403. Treatment of certain income of cooperatives.

Sec. 2404. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.

Sec. 2405. Application of temporary regulations to certain outstanding contracts.

Sec. 2406. Treatment of certain development income of cooperatives.

Title XXV—Additional Provisions

Sec. 2501. Extension of accelerated depreciation and wage credit benefits on Indian reservations.

Sec. 2502. Study of effectiveness of certain provisions by GAO.

Sec. 2503. Credit for production of Alaska natural gas.

Sec. 2504. Sale of gasoline and diesel fuel at duty-free sales enterprises.

Sec. 2505. Treatment of dairy property.

Sec. 2506. Credit or elective tax exemptions for agricultural aerial applicators.

Sec. 2507. Modification of rural airport definition.

Sec. 2508. Exemption from ticket taxes for transportation provided by seaplanes.

Division I—Iraq Oil Import Restriction

Title XXVI—Iraq Oil Import Restriction

Sec. 2601. Short title and findings.

Sec. 2602. Prohibition on Iraqi-origin petroleum imports.

Sec. 2603. Termination/Presidential certification.

Sec. 2604. Humanitarian interests.

Sec. 2605. Definitions.

Sec. 2606. Effective date.

Division I—Miscellaneous

Title XXVII—Miscellaneous Provision

Sec. 2701. Fair treatment of Presidential judicial nominees.

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 a regional basis, State 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, or natural gas, or (3) the reduction in load through increased efficiency, conservation, or load control measures.

Title II—Electricity

Subtitle A—Amendments to the Federal Power Act

Sec. 201. Definitions.

(a) Definition of Electric Utility.—Section 3(23) of the Federal Power Act (16 U.S.C. 792(23)) is amended to read as follows—

‘‘(23) Transmittin g utility.—The term ‘‘transmitting utility’’ means an entity (including any entity described in section 201(f) that owns or operates facilities used for the transmission of electric energy in—

(A) interstate commerce; or

(B) for the sale of electric energy at wholesale.’’


Section 203(a) of the Federal Power Act (16 U.S.C. 782d) is amended to read as follows—

‘‘(a) No electric utility shall, without first having secured an order of the Commission authorizing it to do so—

(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

(C) purchase, acquire, or take any security of any other public utility,

(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy;

(E) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

(A) will be consistent with the public interest;

(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction with an associate company of any party to the transaction;

(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public;

(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company; or

(E) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within the time specified for disposal, the application shall be deemed granted unless the Commission finds that further consideration is required
to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 30 days.

"(6) The Commission shall consider such factors as the Commission may deem to be proper and in the public interest, including to the extent the Commission considers relevant to the wholesale power market—

"(1) market power;
"(2) the nature of the market and its response mechanisms; and
"(3) market margins.

(b) REVOCATION OF MARKET-BASED RATES.—
Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to take action under this section and the expiration of such 60-day period," in the second sentence and inserting "the date of the filing of such complaint no later than 5 months after the filing of such complaint"

"(2) striking "60 days after" in the third sentence and inserting "(i) of such 60-day period" in the third sentence and inserting "publication date".

SEC. 205. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

"OPEN ACCESS BY UNREGULATED TRANSMISSION UTILITIES

"Sec. 211A. (a) Subject to section 212(h), the Commission may, by rule, order, or require, an unregulated transmitting utility to provide transmission services.

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

"(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

(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); or

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

(c) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

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

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

(f) The Commission may not require a State or municipal electric system or a public utility holding company to provide transmission services to any unregulated transmitting utility.

(g) For purposes of this section, 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 201(f) or a rural electric cooperative.

SEC. 212. ELECTRIC RELIABILITY STANDARDS.

"(a) APPROVAL OF MARKET-BASED RATES.—
Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(f) The Commission shall consider such factors as the Commission may deem to be proper and in the public interest, including to the extent the Commission considers relevant to the wholesale power market—

"(1) market power;

"(2) the nature of the market and its response mechanisms; and

"(3) market margins.

(b) REVOCATION OF MARKET-BASED RATES.—
Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to take action under this section and the expiration of such 60-day period," in the second sentence and inserting "the date of the filing of such complaint no later than 5 months after the filing of such complaint"

"(2) striking "60 days after" in the third sentence and inserting "(i) of such 60-day period" in the third sentence and inserting "publication date".

SEC. 206. ELECTRIC RELIABILITY STANDARDS.

"(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 which is responsible for enforcing reliability standards approved by the Commission under section 205.

"(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 but not limited 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 determination of the requirements of this section not later than 180 days after the date of enactment of this section.

"(2) Following the issuance of a Commission rule under section (1) or (2), no person may submit an application to the Commission for certification as an electric reliability organization. The Commission may certify an applicant if the Commission determines that the applicant—

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

"(B) has established rules that—

"(i) assure its independence of the users and owners of the bulk-power system; while assuring fair stakeholder representation in the selection of its directors and balanced decision making in any committee or subordinate organizational structure;

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

"(iii) provide fair and impartial procedures for enforcing reliability standards through imposition of penalties (including limitations on activities, functions, or operations, or other appropriate sanctions); and

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

"(3) The Commission may adopt, or modify, or promulgate, or suspend, or delay, or rescind any 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.

"(4) The Commission shall also adopt, or modify, or promulgate, or suspend, or delay, or rescind any 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.

(b) R EVOCATION OF MARKET-BASED RATES.
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 which is responsible for enforcing reliability standards approved by the Commission under section 205.

"(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 but not limited 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 determination of the requirements of this section not later than 180 days after the date of enactment of this section.

"(2) Following the issuance of a Commission rule under section (1) or (2), no person may submit an application to the Commission for certification as an electric reliability organization. The Commission may certify an applicant if the Commission determines that the applicant—

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

"(B) has established rules that—

"(i) assure its independence of the users and owners of the bulk-power system; while assuring fair stakeholder representation in the selection of its directors and balanced decision making in any committee or subordinate organizational structure;

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

"(iii) provide fair and impartial procedures for enforcing reliability standards through imposition of penalties (including limitations on activities, functions, or operations, or other appropriate sanctions); and

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

"(3) If the Commission receives two or more timely applications that satisfy the requirements of this paragraph and is able to determine that a single reliability organization will improve the application it concludes will best implement the provisions of this section.

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

"(2) The Commission shall 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.

"(3) The electric reliability organization and the Commission shall rebuttably presume that a proposal from a regional entity organized on an interconnected-wide basis for a reliability standard or modification to a reliability standard and to be applicable on an interconnected-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the electric reliability organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission determines inwhole or in part to be unjust, unreasonable, unduly discriminatory or preferential, and in the public interest.

"(5) The Commission, upon its own motion or upon complaint, may order an electric reliability organization to submit to the Commission a proposed reliability standard or modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6) ENFORCEMENT.—(1) An electric reliability organization may impose a penalty on a user or owner or operator of the bulk-power system if the electric reliability organization, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator of the bulk-power system has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice with the Commission, which shall affix, set aside or deny any such penalty.

"(2) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has violated or threatened to violate a reliability standard.

"(3) The Commission shall establish regulations authorizing the electric reliability organization to enter into an agreement to delegate authority to a regional entity for the purpose of proposing and enforcing reliability standards (including related activities) if the regional entity satisfies the provisions of subsection (c)(2)(A) and (B) and the agreement promotes effective and efficient administration of bulk-power system reliability, and may modify such delegation.

The electric reliability organization and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnected-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the effective enforcement of the electric reliability organization's authority to enforce reliability standards directly to a regional entity consistent with the requirements of this paragraph.

"(4) The Commission may assign, delegate, or otherwise exercise its authority as is necessary or appropriate against the electric reliability organization or a regional entity to
ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.

(f) Changes in Electric Reliability Organization. An electric utility, 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 a list of comments received or generated by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c)(2).

(g) Coordination With Canada and Mexico. — (1) The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.

(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.

(h) Reliability Reports. — The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America.

(i) Saving Provisions. — (1) The electric reliability organization shall have authority to develop and enforce compliance with standards for the reliable operation of 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 any standard 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, or upon the request of the Commission, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any request for a modification of the electric reliability organization.

(5) The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

(1) Application of Antitrust Laws. — (1) In General. — To the extent undertaken to develop, implement, or enforce a reliability standard, each of the following activities shall not be, in any action under the antitrust laws, be deemed illegal per se:

(A) activities undertaken by an electric reliability organization under this section, and

(B) activities of a user or owner or operator of the bulk-power system undertaken in good faith under the rules of an electric reliability organization.

(2) Rule of Reason. — In any action under the antitrust laws, an activity described in paragraph (1) shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition and reliability.

(3) Purposes of the subsection. 'antitrust laws' has the meaning given the term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that it includes the provisions of the Federal Power Act (15 U.S.C. 71 et seq.) to the extent that section 5 applies to unfair methods of competition.

(1) Regional Advisory Bodies. — The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one electric reliability entity in the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor, Governor's designee, or interstate commission or agencies of energy, States, and provinces outside the United States. A regional advisory body may provide advice to the electric reliability organization, or body created by the Commission regarding the governance of an existing or proposed regional reliability entity within the same region, whether a standard proposed to apply applies, is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, and, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

(2) Application to Alaska and Hawaii. — The provisions of this section do not apply to Alaska or Hawaii.

SEC. 207. Market Transparency Rules. — Part II of the Federal Power Act is further amended by adding at the end the following:

SEC. 210. MARKET TRANSPARENCY RULES.

(a) Commission Rules. — Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

(b) Information Required. — The Commission shall require —

(1) each regional transmission organization to provide statistical information about the available capacity and capacity constraints of transmission facilities operated by the organization, and

(2) each broker, exchange, or other market-making entity that matches offers to sell and offers to buy wholesale electric energy in interstate commerce to provide statistical information about the amount and sale price of sales of electric energy at wholesale in interstate commerce it transacts.

(c) Timely Basis. — The Commission shall require the information required under subsection (b) to be made available as soon as practicable and updated as frequently as practicable.

(d) Protection of Sensitive Information. — The Commission shall exempt from disclosure commercial or financial information that the Commission, by rule or order, determines to be privileged, confidential, or otherwise sensitive.

SEC. 208. ACCESS TO TRANSMISSION BY INTEGRATED GENERATORS. — Part II of the Federal Power Act is further amended by adding at the end the following:

SEC. 217. ACCESS TO TRANSMISSION BY INTEGRATED GENERATORS.

(a) Fair Treatment of Integrated Generators. — The Commission shall ensure that all transmitting utilities provide transmission service to integrated generators in a manner that does not unduly prejudice or disadvantage such generators for characteristics that are —

(1) inherent to intermittent energy resources; and

(2) are beyond the control of such generators.

(b) Policies. — The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include the following:

(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge interment generator customers for transmission services do not unduly prejudice or disadvantage interment generator customers for scheduling deviations.

(2) The Commission may exempt a transmission service authorized under the paragraph set forth in paragraph (1) if the transmitting utility demonstrates that scheduling deviations by its interment generator customers are likely to have an adverse impact on the reliability of the transmitting utility's system.

(3) The Commission shall ensure that to the extent any transmission charges recovering the costs of the standards development are assessed to such intermittent generators, they are assessed to such generators on a basis of kilowatt-hours generated or some other method to ensure that they are fully recovered by the transmitting utility.

(4) The Commission shall require transmitting utilities to offer to interment generators, and may require transmitting utilities to offer to all transmission customers, access to nonfirm transmission service.

(i) Definitions. — As used in this section:

(B) activities of a user or owner or operator of the bulk-power system provided on an as available basis.

(2) The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

(3) The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an interment generator to a control area operator or transmitting utility.

SEC. 209. ENFORCEMENT. — Complaints. — Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by adding at the end the following:

SEC. 316. ELECTRIC POWER TRANSMISSION SYSTEMS. — The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

Subtitle B — Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE. — This subtitle may be cited as the "Public Utility Holding Company Act of 2003."
(4) The term “company” means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, 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 production, transmission, or distribution of electric energy for sale.

(6) The terms “exempt wholesale generator” and “foreign utility company” have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), 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 the production of gas in interstate commerce for resale, or for the production of gas in interstate commerce, and the sale in interstate or foreign commerce or sales of electric energy at wholesale in interstate commerce.

(8) The term “holding company” means—

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

(B) a person who owns or operates facilities used for the production of electric energy in interstate commerce or for the transmission 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.

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

(10) The term “person” means an individual or corporation.

(11) The term “public utility” means any person who owns or operates facilities used for the production of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

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

(13) 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.

(14) The term “State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, any territory or possession of the United States, or any political subdivision thereof.

(15) The term “subsidiary company” of a holding company means—

(A) any company that owns or holds, directly or indirectly, 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 rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by the Commission.

(16) The term “utility” includes, among other things, any company that is an associate company of such a holding company, or any affiliate of any company that is an associate company of such a holding company, or any subsidiary company of a public utility company or holding company of any public utility company, and that is other than a exempt wholesale generator, or foreign utility company.

(17) The term “voting security” means any security presently entitling the owner thereof to or having authority to control the management or affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING
COMPANY ACT OF 1935.


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 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.

(b) AFFILIATE COMPANIES.—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 with respect 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, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company in a 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, and other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 225. ACCESS TO BOOKS AND
RECORDS.

(a) In General.—Upon the written request of the Commission, each public utility company having jurisdiction to regulate a public utility company in a holding company system, the holding company or any affiliate thereof, other than such public utility company, wherever located, shall make available to the Commission, books, accounts, memoranda, and other records that—

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

(2) are the State commission deems are 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 person that is a holding 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 the terms and conditions as may be necessary or appropriate to prevent unwanted disclosure to the public of any trade secrets or sensitive commercial information.

SEC. 226. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall promulgate a final rule to exempt 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 sections 224, if, upon application or upon the motion of the Commission—

(1) the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional 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. STATE ACCESS TO BOOKS AND
RECORDS.

(a) COMMISSION AUTHORITY UNAFFECTED.—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 consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle precludes the Commission or a State commission from recovering costs from any person or transaction.

(c) COURT JURISDICTION.—Nothing in this subtitle shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records in any way limit the right of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

SEC. 228. APPLICABILITY.

Nothing in this subtitle 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);

(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.

SEC. 229. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs that are not incurred by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

SEC. 230. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.
The task force shall submit a final report of its findings and recommendations to the Congress and the States for any necessary legislative changes.

SEC. 236. EFFECTIVE DATE.

This subtitle shall take effect 18 months after the date of enactment of this subtitle.

SEC. 237. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

(b) DEFINITIONS. — (1) Section 201(g) of the Federal Power Act (16 U.S.C. 824(g)) 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".

Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 241. REQUIREMENTS FOR 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. 2642(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, provide under a real-time rate schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's cost of providing electric service. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time pricing and communication technologies.

(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY.—Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generating facilities, and shall monitor and report to its state regulatory authority greenhouse gas emissions resulting from the inefficient operation of its fossil fuel generating plants.

(9) FOSSIL FUEL EFFICIENCY.—Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generating facilities, and shall monitor and report to its state regulatory authority greenhouse gas emissions resulting from the inefficient operation of its fossil fuel generating plants.

(10) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is further amended by adding at the end the following:

"(1) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), 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 subsection."

SEC. 243. TECHNICAL ASSISTANCE.

Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:

"(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—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 section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b)."

SEC. 244. 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. 2641) is amended in paragraph (2) of subsection (c) by striking "wholesale electric energy" and inserting "electric energy produced by cogeneration facilities or small power production facilities".
U.S.C. 824a-3) is amended by adding at the end the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from or to sell electric energy to a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

(3) No effect on existing rights and remedies.—Nothing in this subsection shall affect existing rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy from or to sell electric energy to a qualifying small power production facility.

(4) Effect on existing rate structures.—Nothing in this subsection shall be construed to affect any rate structure or any rate proceeding that has become effective before the date of enactment of this subsection, if the Commission determines, by rule, meets the test of reasonableness.

(5) Right of consumer and ratepayer.—Nothing in this subsection shall affect any right of consumer or ratepayer.

(6) Effect on existing contracts.—Nothing in this subsection shall affect any existing contract for the purchase or sale of electric energy.

(b) SPECIAL RULES FOR NET METERING.—Section 215 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

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

(A) shall charge the owner or operator of an on-site generating facility any additional 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 charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

(2) 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 generating facility.

(3) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY GENERATED.—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 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 GENERATED.—If the quantity of electric energy supplied by the on-site generating facility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

(A) the electric utility may bill the owner or operator of the on-site generating facility for the charge in paragraph (2); and

(B) the owner or operator of the on-site generating facility shall be credited for the excess quantity of electric energy supplied by the on-site generating facility during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

(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, reliability, and interconnection standards established by the Federal Energy Regulatory Commission and by Underwriters Laboratories.

(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—If an electric utility, after consultation with the Federal Energy Regulatory Commission or Underwriters Laboratories, determines that additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

(7) Definitions.—For purposes of this subsection—

(A) The term 'electric utility' means—

(1) a facility on the site of a residential electric consumer with a maximum generating capability of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or

(2) a facility on the site of a commercial electric consumer with a maximum generating capability of 100 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

(7) THE TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from or to sell electric energy to a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

(3) No effect on existing rights and remedies.—Nothing in this subsection shall affect existing rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy from or to sell electric energy to a qualifying small power production facility.

(4) Effect on existing rate structures.—Nothing in this subsection shall be construed to affect any rate structure or any rate proceeding that has become effective before the date of enactment of this subsection, if the Commission determines, by rule, meets the test of reasonableness.

(5) Right of consumer and ratepayer.—Nothing in this subsection shall affect any right of consumer or ratepayer.

(6) Effect on existing contracts.—Nothing in this subsection shall affect any existing contract for the purchase or sale of electric energy.

(b) SPECIAL RULES FOR NET METERING.—Section 215 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

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

(A) shall charge the owner or operator of an on-site generating facility any additional 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 charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

(2) 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 generating facility.

(3) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY GENERATED.—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 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 GENERATED.—If the quantity of electric energy supplied by the on-site generating facility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

(A) the electric utility may bill the owner or operator of the on-site generating facility for the charge in paragraph (2); and

(B) the owner or operator of the on-site generating facility shall be credited for the excess quantity of electric energy supplied by the on-site generating facility during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

(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, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—If an electric utility, after consultation with the Federal Energy Regulatory Commission or Underwriters Laboratories, determines that additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

(7) Definitions.—For purposes of this subsection—

(A) The term 'electric utility' means—

(1) a facility on the site of a residential electric consumer with a maximum generating capability of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or

(2) a facility on the site of a commercial electric consumer with a maximum generating capability of 100 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.
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.

(d) Definitions.—As used in this section:

(1) The term ‘aggregate consumer information’ means collective data that relates to a group or category of electric consumers, from which individual consumer identities and characteristics have been removed.

(2) The term ‘consumer information’ means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to an electric consumer.

SEC. 257. REINVENTION OF CONSUMER ADVOCACY.

(a) Definitions.—In this section:


(b) Energ y 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.

(c) 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 and Conservation Act of 1978 (42 U.S.C. 13414(a)).

(d) Director.—The term ‘Director’ means a Director to be appointed by the President, by and with the advice and consent of the Senate.

(e) Energy consumer.—The term ‘energy consumer’ means an individual consumer of electric energy.

(f) Incen tive payments.—The term ‘incentive payments’ means payments, including foregone revenue, to an energy customer for the installation or use of advanced metering equipment.

(g) Peak demand.—The term ‘peak demand’ means the maximum amount of use of electric energy delivered to an energy customer in any period of not more than 1 hour.

(h) Small commercial customer.—The term ‘small commercial customer’ means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(i) Establishment.—There is established within the Department of Justice the Office of Consumer Advocacy.

(2) 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.

(3) Duties.—The Office may represent the interests of energy consumers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission.

(a) at hearings of the Commission;

(b) in judicial proceedings in the courts of the United States;

(c) at hearings or proceedings of other Federal regulatory agencies and commissions.

SEC. 258. APPLICATION OF SUBTITLE.

The provisions of this subtitle apply to each electric utility, as defined in section 115 of the Federal Power Act, to the extent that such operations relate to sales of electric energy for purposes of resale.

SEC. 259. DEFINITIONS.

As used in this subtitle:

(1) The term ‘aggregate consumer information’ means collective data that relates to a group or category of electric consumers, from which individual consumer identities and identifying characteristics have been removed.

(2) The term ‘consumer information’ means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to an electric consumer.

(3) The term ‘electric customer’, ‘electric utility’, and ‘State regulatory authority’ have the meanings given in subsection (b)(1).

(b) Definition of Incentive Payments.—The term ‘incentive payments’ means payments, including foregone revenue, to an energy customer for the installation or use of advanced metering equipment.

(b) Eligibility Window.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ‘‘and’’ and inserting ‘‘and which satisfies the following conditions’’ and inserting the following:

‘‘(2) not less than 5 percent in fiscal years 2005 through 2010;’’.

(c) State Regulatory Authority.—The term ‘State regulatory authority’ has the meaning given in section 115 of the Energy Policy and Conservation Act of 1978 (42 U.S.C. 13414(a)).

SEC. 261. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) Incen tive Payments.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ‘‘(1) not less than 3 percent in fiscal years 2003 through 2023;’’ and inserting:

‘‘(1) not less than 3 percent in fiscal years 2003 through 2007;’’.

(c) Eligibility Window.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ‘‘July 6, 2013;’’ and inserting ‘‘July 6, 2015’’.

(d) Definition of Incremental Hydroelectric Power.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by inserting ‘‘Government’’ after ‘‘Secretary’’.

SEC. 262. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) Resource Assessment.—Not later than 3 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the comprehensive assessments of renewable energy resources available within the United States, including solar, wind, biomass, ocean, geothermal, and hydropower resources, and undertake new assessments as necessary, taking into account changes in market conditions, renewable energy technologies and other relevant factors.

(b) Contents of Reports.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain:

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources, and

(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including data on the availability of those resources.

SEC. 263. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and not less than 7.5 percent in fiscal years 2010 and each year thereafter, the Federal Government shall be renewable energy. The President shall encourage the use of innovative purchasing practices by Federal agencies.

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 265. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 266. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 267. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 268. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 269. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President shall seek to ensure that, not later than 3 percent in fiscal years 2003 through 2004, and not less than 5 percent in fiscal years 2005 through 2009, and

(b) Incremental Hydropower Production.—For purposes of this section, the term ‘incremental hydropower’ means electric energy generated from solar, wind, biomass, ocean, geothermal, fuel cells, municipal solid waste, and any hydropower facility that does not unfairly disadvantage renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable energy resources, and

SEC. 270. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.

SEC. 271. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.

SEC. 272. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.

SEC. 273. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.

SEC. 274. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.

SEC. 275. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures that are less expressly authorized by law or the electric policy.
1)

(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 annual percentage specified in subsection (b).

(b) Required Annual Percentage. — (1) For calendar years 2005 through 2020, the required annual percentage of the retail electric supplier’s base amount 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>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 through 2010</td>
<td>3.4</td>
</tr>
<tr>
<td>2011 through 2012</td>
<td>4.6</td>
</tr>
<tr>
<td>2013 through 2014</td>
<td>5.8</td>
</tr>
<tr>
<td>2015 through 2016</td>
<td>7.0</td>
</tr>
<tr>
<td>2017 through 2018</td>
<td>8.5</td>
</tr>
<tr>
<td>2019 through 2020</td>
<td>10.0</td>
</tr>
</tbody>
</table>

(2) Not later than January 1, 2015, the Secretary shall establish required annual percentages in amounts not less than 10.0 for calendar years 2021 through 2030.

(c) Submission of Credits. — (1) A retail electric supplier may satisfy the requirements of subsection (a) through the submission of renewable energy credits—

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

(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 electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. If the Secretary determines that the renewable energy resource used to generate electric energy will not be used in the calendar year generation actually occurs.

(e) Credit Trading. — A retail electric supplier that does not comply with subsection (a) for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year shall be carried forward for use within the next 4 years.

(f) Credit Borrowing. — At any time before the end of calendar year 2005, a retail electric supplier may acquire renewable energy credits that will adjust the amount of renewable energy credit for the purposes of the purposes of this section for the duration of the contract.

(g) The Secretary may issue credits for existing facilities, including dedicated energy crops, trees grown for energy production, and waste materials, materials, and fats and oils, except that with respect to material removed from National Forest System lands the term includes only organic material technology.

(h) Definitions. — For purposes of this section:

(i) Biomass. — The term ‘biomass’ means any organic material that is available on a renewable energy basis, including dedicated energy crops, trees grown for energy production, feedstock for energy fuel, and waste materials, and fats and oils, except that with respect to material removed from National Forest System lands the term includes only organic material technology.

(i) Eligible Facility. — The term ‘eligible facility’ means 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.

(j) Generation Offset. — The term ‘generation offset’ means reduced electricity usage measured at a site where a customer consumes energy from a renewable energy technology.

(k) Existing Facility Offset. — The term ‘existing facility offset’ means renewable energy resources.
generated from an existing facility, not classified as an eligible facility, that is owned or under contract to a retail electric supplier on the date of enactment of this section.

(b) DEFINITION OF FEDERAL LAND.—The term ‘incremental hydropower’ means additional generation that is achieved from increased efficiency or additions of capacity after the date of enactment of this section, at a hydropower dam that was in service before that date.

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

(A) any land within the limits of any Indian reservation, pueblo, or rancheria,

(B) any land not within the limits of any Indian reservation, pueblo, or rancheria to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by the United States to restrict to the Alaska Native Claims Settlement Act,

(C) any dependent Indian community, and

(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

(8) INDIAN TRIBE.—The term ‘Indian tribe’ means 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. 1601 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.

(9) RENEWABLE ENERGY.—The term ‘renewable energy’ means electric energy generated by 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 COFIRINING INCREMENT.—The term ‘repowering or cofiring increment’ means 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 addition of a new 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 addition of a new 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.

(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.

(13) RETAIL ELECTRIC SUPPLIER’S BASE AMOUNT.—The term ‘retail electric supplier’s base amount’ means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by

(A) an eligible renewable energy resource;

(B) municipal solid waste; or

(C) a hydroelectric facility.

(14) SECRETARY.—This section expires December 31, 2030.15

SEC. 256. RENEWABLE ENERGY ON FEDERAL LAND.

(a) Cost-Share Demonstration Program.—Within 12 months after the date of enactment of this section, the Secretaries of the Interior, Agriculture, and Energy shall develop guidelines for a cost-share demonstration program for the development of wind and solar energy facilities on Federal land.

(b) DEFINITION OF FEDERAL LAND.—As used in this section, the term ‘Federal land’ means land owned by the United States that is subject to the operation of the mineral leasing laws; and is either

(1) public land as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)); or

(2) a unit of the National Forest System as that term is used in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.).

(c) RIGHTS-OF-WAY.—The demonstration program shall provide for the issuance of rights-of-way pursuant to the provisions of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 et seq.), by the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and by the Secretary of Agriculture with respect to Federal lands under the jurisdiction of the Department of Agriculture.

(d) AVAILABLE SITES.—For purposes of this demonstration program, the issuance of rights-of-way shall be limited to areas—

(1) of high energy potential for wind or solar development;

(2) that have been identified by the wind or solar energy industry, through a process of nomination, application, and approval as being of particular interest to one or both industries;

(3) that are not located within roadless areas; and

(4) where the energy production facilities would be compatible with the scenic, recreational, environmental, cultural, or historic values of the Federal land, and would not require the construction of roads for the siting of lines or other transmission facilities; and

(5) where issuance of the right-of-way is consist with the land and resource management plans of the relevant land management agencies.

(e) COST-SHARE PAYMENTS BY DOE.—The Secretary of Energy, in cooperation with the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and the Secretary of Agriculture with respect to Federal land under the jurisdiction of the Department of Agriculture, shall determine if a portion of a project on Federal land is not located within roadless areas, and is consistent with the requirements of this section and any other provision of law, an additional 3 cents per kilowatt-hour generated from a renewable energy resource sold by a retail electric supplier, to electric customers on Federal land or Rangeland Renewables Planning Act of 1974 (16 U.S.C. 1604).

(f) REVIEW OF LAND USE PLANS.—The Secretary of the Interior shall contract with the Secretary of Agriculture to conduct a study of Federal land and resource management plans under section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to determine if the Secretary of the Interior or the Secretary of Agriculture have encountered any legal or other provisions to promote wind and solar energy on Federal land; or believe are likely to arise in relation to the development of wind or solar energy on Federal land.

(g) REPORT TO CONGRESS.—Within 90 days after the enactment of this Act, the Secretary of the Interior shall report to Congress on the results of the study and any recommendations the Secretary be ultimate authority on Federal land; and

(h) NATIONAL ACADEMY OF SCIENCES STUDY.—Within 30 days after the enactment of this Act, the Secretary of the Interior shall report to Congress on the results of the study and any recommendations the Secretary be ultimate authority on Federal land; and

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 839k) is amended—

(1) by striking the section heading and all that follows through ‘‘(a) The Administrator’’ and adding the following:

(b) BONNIEVILLE POWER ADMINISTRATION BONDS.

Sec. 13. The Federal Columbia River Transmission System Act (16 U.S.C. 839k) is amended—

(1) by striking the section heading and all that follows through ‘‘(a) The Administrator’’ and adding the following:

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

(a) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

(b) to implement the priorities set forth in the Bonneville Power Administration.

SEC. 257. RENEWABLE ENERGY BONDS.

(a) BONDS.—

(b) IN GENERAL.—The Administrator shall:

(c) by adding at the end the following:

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

(a) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

(b) to implement the priorities set forth in the Bonneville Power Administration.

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

(3) a list, developed in consultation with the Secretaries of Energy and Defense, of lands under the jurisdiction of the Departments of Energy and Defense that would be suitable for development for wind or solar energy, and recommended statutory and regulatory mechanisms for such development.

(3) a list, developed in consultation with the Secretaries of Energy and Defense, of lands under the jurisdiction of the Departments of Energy and Defense that would be suitable for development for wind or solar energy, and recommended statutory and regulatory mechanisms for such development.

(http://)
deem a condition to such license to be necessary under the first proviso of such section, the li-
cense applicant may propose an alternative con-
dition. (2) Notwithstanding the first proviso of sub-
section (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the commis-
sion shall include in the license such alternative condition, if the Secretary of the appropriate de-
artment determines, based on substantial evi-
dence that the Indian tribe is not the licensee applicant, that the alternative condition—
(A) provides for the adequate protection and utilization of the reservation; and
(B) will either—
(i) cost less to implement, or
(ii) result in improved operation of the project works for electricity production as com-
pared to the condition initially deemed neces-
S10748
sary by the Secretary.
(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alter-
native condition under this subsection, in-
cluding the effects of the condition accepted and alternative condition, on energy on the dis-
tribution, cost, and use, air quality, flood con-
trol, navigation, and drinking, irrigation, and
recreation water supply, based on such informa-
tion as may be available to the Secretary, in-
cluding information voluntarily provided in a
S10748 timely manner by the applicant and others.
(4) Nothing in this subsection shall prohibit other Indian tribes from proposing alter-
native conditions.
(b) ALTERNATIVE FISHWAYS.—Section 18 of the
Federal Power Act (16 U.S.C. 811) is amended by—
(1) inserting “(a)” before the first sentence; and
(2) adding at the end the following:
“(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a
fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or op-
erate a fishway.
“(2) Notwithstanding subsection (a), the Sec-
S10748 retary of the Interior or the Secretary of Com-
merce, as appropriate, shall accept and pre-
scribe, and the Commission shall include in the license such alternative prescription, if the Secretary of the appropriate depart-
movement determines, based on substantial evi-
dence provided by the licensee, that the alternative
(A) is protective of less protective of the fish re-
S10748 sources than the fishway initially prescribed by the Secretary; and
(B) will either—
(i) cost less to implement, or
(ii) result in improved operation of the project works for electricity production as com-
pared to the fishway initially prescribed by the
Secretary.
(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood con-
trol, navigation, and drinking, irrigation, and recre-
S10748ation water supply, based on such informa-
tion as may be available to the Secretary, in-
cluding information voluntarily provided in a
S10748 timely manner by the applicant and others.
(4) Nothing in this subsection shall prohibit other interested parties from proposing alter-
S10748 native conditions.
(c) TIME OF FILING APPLICATION.—Section
15(c)(1) of the Federal Power Act (16 U.S.C.
808(c)(1)) is amended by striking the first sen-
tence and inserting the following:
“(1) Each application for a new license pursuan-
to this section shall be filed with the Com-
mission—
(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and
(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year there-
S10748after.”

TITLE IV—INDIAN ENERGY
SEC. 401. COMPREHENSIVE INDIAN ENERGY PRO-
GRAM. (a) Definitions.—For purposes of this sec-
tion:
(1) the term ‘Director’ means the Director of the
Office of Indian Energy Policy and Programs estab-
lished under section 217 of the Department of
Energy Organization Act, and
(2) the term ‘Indian land’ means—
(A) any land within the limits of an Indian
reservation, pueblo, or rancheria; (B) any lands within the limits of an Indian
reservation, pueblo, or rancheria whose title is held—
(i) in trust by the United States for the ben-
S10748efit of any Indian tribe; or
(ii) by an Indian tribe subject to restriction
by the United States against alienation, or
(iii) by a dependent Indian community; and
(C) land conveyed to an Alaska Native Cor-
poration under the Alaska Native Claims Settle-
S10748ment Act.
(b) INDIAN ENERGY EDUCATION PLANNING AND
MANAGEMENT ASSISTANCE.—(1) The Direc-
S10748tor shall establish programs within the Office of
Indian Energy Policy and Programs to assist In-
dian tribes in meeting their energy education, research and development, planning, and man-
agement needs.
(2) The Director may make grants, on a com-
petitive basis, to an Indian tribe for—
(A) renewable energy, energy efficiency, and
S10748conservation programs;
(B) studies and other activities supporting tribal acquisition of energy supplies, services, and
facilities; (C) planning, constructing, developing, oper-
ating, maintaining, and improving tribal elec-
trical generation, transmission, and distribution
facilities; and
(D) developing, constructing, and inter-
connecting electric power transmission facilities
with transmission facilities owned and operated
by a Federal power marketing agency or an elec-
tric utility that provides open access trans-
mission service.
(c) INDIAN ENERGY PREFERENCE.—(1) An
agency or department of the United States Gov-
S10748ernment may, in the purchase of electricity, oil, gas, coal, or other energy product or by-
S10748product, preference in such purchase to an en-
S10748ergy and resource production enterprise, part-
nership, corporation, or other type of business organization majorly or wholly owned and con-
trolled by an Indian tribe.
(2) In implementing this subsection, an agen-
cy or department shall pay no more than the prevailing market price for the energy product or by-
product, less than existing market terms and condi-
tions.
(d) EFFECT ON OTHER LAWS.—This section
does not
(1) limit the discretion vested in an Adminis-
trator of a Federal power marketing agency to market and allocate Federal power, or
(2) alter Federal laws under which a 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 Organiza-
tion Act is amended by adding at the end the fol-
S10748lowing: ‘‘OFFICE OF INDIAN ENERGY POLICY
AND PROGRAMS
‘‘SEC. 217. (a) There is established within the
Department an Office of Indian Energy Policy and
S10748Programs. This Office shall be headed by a
Director, who shall be appointed by the Sec-
S10748retary, and the Director shall be compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.
(b) The Director shall provide, direct, foster, coordinate, and implement on Indian land, planning, education, management, conservation, and de-
livery programs of the Department that—
tribe to grant a lease or right-of-way pursuant
adversely affected by the decision of an Indian
executive order, or secretarial order.
eral statute, secretarial order, or judicial deter-
of an Indian tribe, the exterior boundaries of
aside or that has been acknowledged as having
inserted after the item relating to section
stents of the Department of Energy Act is amend-
title 5, United States Code, is amended by insert-
’ order, Office of In Energy Policy and Pro-
ector, Inspector General, Department of Energy.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.
tribal regulations.

(1) promote tribal energy efficiency and utili-
modernize and develop, for the benefit of
natural resource development
(3) preserve and promote tribal sovereignty and
self determination related to energy matters and
(4) lower or stabilize energy costs; and
(5) electify tribal members’ homes and tribal
lands.
(1) The Director shall carry out the duties
assigned the Secretary or the Director under
U.S.C. 3503) at the discretion of the Indian tribe.
SEC. 402. CONFORMING AMENDMENTS.
(a) AUTHORIZATIONS OF APPROPRIATIONS.—Sec-
tion 2603(c) of the Energy Policy Act of 1992 (25
U.S.C. 3503(c)) is amended to read as follows:
’ authorization of appropriations. — There
are authorized to be appropriated such
sums as may be necessary to carry out the pur-
poses of this section.’
(b) TABLE OF CONTENTS.—The table of con-
ents of the Department of Energy Act is amend-
by inserting after the item relating to section
216 the following new item:
’ Sec. 217. Office of Indian Energy Policy and
Programs.’
(c) EXECUTIVE SCHEDULE.—Section 5315 of
title 5, United States Code, is amended by insert-
’s Office of Indian Energy Policy and Programs.
Director, Office of Indian Energy Policy
and Programs.’
(1) I N GENERAL.—The term ‘Indian tribe’ means
any Indian tribe, band, nation, or other
organized group or community, which is recog-
nized as eligible for the special programs and
services provided by the United States to Indi-
ans because of their status as Indians, except
that such tribe does not include any Regional
Corporation as defined in section 3(i) of the
Alaska Native Claims Settlement Act (43 U.S.C.
1621(g)).
(2) INTERESTED PARTY.—The term ‘interested
means a person whose interests could be
adversely affected by the decision of an Indian
tribe to grant a lease or right-of-way pursuant
to this subsection.
(3) PETITION.—The term ‘petition’ means a
written request submitted to the Secretary for
the resolution of a disagreement (as defined in the section) of an
Indian tribe that is claimed to be in violation of
the approved tribal regulations.
(4) RESERVATION.—The term ‘reservation’ means
(a) with respect to a reservation in a State other
than Oklahoma, all land that has been set
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 treaty, agreement, executive order, Fed-
eral statute, secretarial order, or judicial deter-
mation.
(b) with respect to a reservation in the State of
Oklahoma, all land that is—
(i) within the jurisdictional area of an Indian
tribe, and
(ii) within the boundaries of the last reserva-
tion 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
tribal trust lands, or other lands owned by an Indian tribe that are
within such tribe’s reservation.
(7) LEASES INVOLVING GENERATION, TRANS-
smission, or distribution facilities.—An Indian tribe may grant a lease
of tribal land for electric generation, trans-
mision, or distribution facilities, or facilities to
process or refine renewable or nonrenewable en-
ergy resources developed on tribal lands, and
such leases shall not require the approval of the
Secretary if—
(a) the lease or right-of-way is executed under tribal
regulations approved by the Secretary under
this subsection and the term of the lease does
not exceed 30 years.
(b) Right-of-way for electric genera-
tion, 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 Sec-
retary, 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 distribu-
tion line serves—
(A) an electric generation, transmission or dis-
tribution facility located on tribal land, or
(B) a facility located on tribal land that pro-
cesses or refines renewable or nonrenewable en-
ergy resources developed on tribal lands.
(8) RENEWALS.—Leases or rights-of-way enter-
ted into under this subsection may be renewed
at the discretion of the Indian tribe in accord-
ance with the requirements of this section.
(9) TRIBAL AGREEMENTS.— (1) The Secretary shall
have the authority to ap-
prove or disapprove tribal regulations required
under this subsection. The Secretary shall ap-
proving such tribal regulations if they are com-
prehensive in nature, including provisions that
address—
(A) securing necessary information from the
lessee or right-of-way applicant;
(B) term of the conveyance;
(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 section 18 of title 25, United States
Code, as provided by regulations promulgated by
the Secretary.
(2) No lease or right-of-way shall be valid un-
less authorized in compliance with the approved
tribal regulations.
(3) An Indian tribe, as a condition of securing
Secretary’s approval as contemplated in para-
graph (1), must establish an environmental
review process that includes the following—
(A) an identification of all sig-
ificant environmental impacts of the proposed
action as compared to a no action alternative;
(B) an identification of alternatives;
(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 environ-
mental 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 regu-
lations to the Secretary. Any approval or disappro
val of such regulations shall be accom-
panied by written documentation that sets
forth the basis for the disapproval. The 180-day
period may be extended by the Secretary after consultation with
the tribe.
(5) If the Indian tribe executes a lease or
right-of-way pursuant to tribal regulations re-
quired under this section, the Indian tribe shall
provide the Secretary with—
(A) a copy of the lease or right-of-way docu-
ment and all amendments and renewals thereto;
and
(B) in the case of regulations or a lease or
right-of-way that permits payment to be made
directly to the Indian tribe, documentation of
the payment and certify to the Secretary that
the Secretary to discharge the trust responsibil
ity of the United States as appropriate under existing law.
(6) The United States shall not be liable for
losses sustained by any party to a lease exe-
cuted pursuant to tribal regulations under this
subsection, including the Indian tribe.
(7) (A) An interested party may, after exhaus-
tion of all administrative remedies, submit, in a
manner prescribed by the Secretary, a petition
requesting the Secretary to review the
compliance of the Indian tribe with any tribal
regulations approved under this subsection.
(B) If the Secretary determines that
the regulations were violated, the Secretary shall
make recommendations regarding the removal of
such leases or rights-of-way associated with the fac-
ilities addressed in this section.
(8) If the Secretary seeks to remedy a viola-
tion described in subparagraph (A), the Secretary
shall—
(i) make a written determination with respect
to the regulations that have been violated;
(ii) provide the Indian tribe with a written no-
ice of the alleged violation together with such
written determination; and
(iii) prior to the exercise of any remedy or the
recess of the approval of the regulations in-
volved and reissuance of the lease or right-of-
way approval responsibility, provide the Indian
tribe with a hearing and a reasonable oppor-
tunity to cure the alleged violation.
(C) The tribe shall retain all rights to appeal
as provided by regulations promulgated by the
Secretary.
(1) AGREEMENTS.—(1) Agreements between an
Indian tribe and a business entity that are di-
rectly associated with the development of
electric generation, transmission or distribution fa-
cilities, or facilities to process or refine renew-
able or nonrenewable energy resources devel-
oped on tribal lands, shall not separately re-
quire the approval of the Secretary pursuant
to section 18 of title 25, United States Code, as
long as the activity that is the subject of the agree-
ment 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
losses or damages sustained by any party,
including the Indian tribe, that are associated
with an agreement entered into under this sub-
section.
(2) DISCLAIMER.—Nothing in this section is in-
tended to modify or otherwise affect the applica-
bility of any provision of the General
Leasing Act of 1938 (25 U.S.C. 396a–396p); In-
2101–2108); Surface Mining Control and Rec-
Rec Act of 1977 (30 U.S.C. 1201–1238); any
amendments thereto; or any other laws not spe-
cifically addressed in this section.
(3) Indian mineral development act—
(a) IN GENERAL.—The Secretary of the In-
terior shall conduct a review of the activities
that have been conducted by the governments of In-
indian tribes under the Indian
2101 et seq.)
(b) REPORT.—Not later than 1 year after the
date of the enactment of this Act, the Secretary
shall transmit to the Committee on Resources of
the House of Representatives and the Committee on
Indian Affairs and the Committee on Energy
and Natural Resources of the Senate a report
containing—
(1) the results of the review;
(2) recommendations designed to help ensure
that Indian tribes have the opportunity to de-
develop their nonrenewable energy resources;
and
(3) an analysis of the barriers to the develop-
ment of energy resources on Indian land,
improving access to public law allowances and
make recommendations regarding the removal of
such barriers.
S10750

CONGRESSIONAL RECORD — SENATE
July 31, 2003

S. 10750

(c) Consultation.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations as 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 every 2 years thereafter, the Secretary of Energy shall transmit to the Committees on Energy and Commerce 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 needs of Indian tribes, including Federal policies and regulations, and Indian tribal priorities. The report shall address 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 as provided in this section.

SEC. 407. FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) Definitions.—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.—(1) Each Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power. The costs of such technical assistance shall be funded—

(A) by the Administrator using non-reimbursable funds appropriated for this purpose, or

(B) by the Indian tribe.

(2) Priorities for 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) Missouri River 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 the Committee on Indian Affairs a report on Indian tribes’ utilization of Federal power allocations of the Western Area Power Administration, or power sold by 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 Power Marketing Administrations; 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 the 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.

(d) Authorization for Appropriation.—There are authorized to be appropriated—

$100,000,000, until September 30, 2007, to carry out the purposes of this section.

SEC. 408. FEASIBILITY STUDY OF COMBINED WIND AND HYDROPOWER DEMONSTRATION PROJECT.

(a) Study.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project which the Western Area Power Administration could carry out in partnership with an Indian tribe or tribes to utilize wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firm power to the Western Area Power Administration.

(b) Scope of Study.—The study shall—

(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River by facilities operated by the Army Corps of Engineers;

(2) review historical purchase requirements and projected purchase requirements for firm energy and the patterns of availability and use of firm energy;

(3) assess the wind energy resource potential on tribal lands and projected cost savings through a blend of wind and hydropower over a thirty-year period;

(4) include a preliminary interconnection study and a determination of resource adequacy of the Upper Great Plains Region of the Western Area Power Administration;

(5) determine seasonal capacity needs and associated transmission needs for integration of tribal wind generation; and

(6) include an independent tribal engineer as a study team member.

(c) Report.—The Secretary of Energy and the Secretary of the Army shall submit a report to Congress not later than 1 year after the date of enactment of this Act. The Secretary shall include in the report—

(1) an analysis of the potential energy cost savings to the customers of the Western Area Power Administration through the blend of wind and hydropower;

(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production and provide Missouri River management flexibility;

(3) recommendations for a demonstration project which the Western Area Power Administration could carry out in partnership with an Indian tribal government or tribal government energy consortium to demonstrate the feasibility and potential of using wind energy produced on Indian lands as a source of energy to the Western Area Power Administration or other Federal power marketing agency; and

(4) an identification of the economic and environmental benefits that could be realized through such a Federal-tribal partnership and identification of how such a partnership could contribute to the energy security of the United States.

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

(e) Authorization for Appropriation.—There are authorized to be appropriated—

$100,000,000, until September 30, 2007, to carry out the purposes of this section, which shall remain available until expended. All costs incurred by the Western Area Power Administration associated with performing the tasks required under this section shall be nonreimbursable.

TITLE V—NUCLEAR POWER

Subtitle A—Price-Anderson Act Amendments

SEC. 501. SHORT TITLE.

This subtitle may be cited as the “Price-Anderson Amendments Act of 2003”.

SEC. 502. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) Indemnification of Nuclear Regulatory Commission Licensees.—Section 170c(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210c(1)(A)) is amended by striking ‘‘, until August 1, 2002,’’.

(b) Indemnification of Department of Energy Contractors.—Section 170d(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210d(1)(A)) is amended by striking ‘‘, until August 1, 2002,’’.

(c) Indemnification of Nonprofit Educational Institutions.—Section 170k of the Atomic Energy Act of 1954 (42 U.S.C. 2210k) is amended by striking ‘‘August 1, 2002’’ each place it appears and inserting ‘‘August 1, 2012’’.

(d) Indemnification of Department of Energy Liability Limit.—(1) Indemnification of Department of Energy Contractors.—Section 170d(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210d(1)(B)) is amended by striking paragraph (2) and inserting the following:

(2) The amounts of indemnification entered into under paragraph (1), the Secretary—

(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractor activity; and

(B) shall indemnify against such liability the persons indemnified under this paragraph; or

(2) Indemnification of Nonprofit Educational Institutions.—Section 170k of the Atomic Energy Act of 1954 (42 U.S.C. 2210k) is amended by striking ‘‘August 1, 2002’’ each place it appears and inserting ‘‘August 1, 2012’’.

SEC. 503. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) Indemnification of Department of Energy Contractors.—Section 170d of the Atomic Energy Act of 1954 (42 U.S.C. 2210d) is amended by striking paragraph (2) and inserting the following:

(2) The amounts of indemnification entered into under paragraph (1), the Secretary—

(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractor activity; and

(B) shall indemnify against such liability the persons indemnified under this paragraph; or

(3) Indemnification of Nonprofit Educational Institutions.—Section 170k of the Atomic Energy Act of 1954 (42 U.S.C. 2210k) is amended by striking ‘‘August 1, 2002’’ each place it appears and inserting ‘‘August 1, 2012’’.

SEC. 504. STUDENTS OUTSIDE THE UNITED STATES.

(a) Amount of Indemnification.—Section 170e(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210e(1)(A)) is amended by striking '‘$100,000,000,’’ and inserting '‘$500,000,000.’’

(b) Liability Limit.—Section 170e(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210e(4)) is amended by striking '‘$100,000,000,’’ and inserting '‘$500,000,000.’’

SEC. 505. REPORTS.

(a) Reports.—Section 170f of the Atomic Energy Act of 1954 (42 U.S.C. 2210f) is amended by striking ‘‘August 1, 1998’’ and inserting ‘‘August 1, 2008’’.

(b) Inflation Adjustment.—(1) The Atomic Energy Act of 1954 (42 U.S.C. 2210f) is amended by striking '‘August 1, 1998.’’

(c) Technical Amendments.—(2) The Atomic Energy Act of 1954 (42 U.S.C. 2210f) is amended by striking '‘August 1, 1998.’’

(d) Authorization for Appropriation.—There are authorized to be appropriated—

$100,000,000, for public liability and any applicable financial protection required of the contractor under this subsection.}

(e) Authorization for Appropriation.—There are authorized to be appropriated—

$100,000,000, for public liability and any applicable financial protection required of the contractor under this subsection.}

(f) Authorization for Appropriation.—There are authorized to be appropriated—

$100,000,000, for public liability and any applicable financial protection required of the contractor under this subsection.}
(B) the previous adjustment under this paragraph.

SEC. 507. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATION REMISSION.—Section 293 of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties assessed under subsection a., may not exceed the total amount of fees paid within any one-year period by the Secretary under the contract under which the violation occurs.

(2) For purposes of this section, the term ‘not-for-profit’ means that not part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

SEC. 508. TREATMENT OF MODULAR REACTORS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2279g-13) is amended by adding at the end the following:

(5) (A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (A) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

(B) The term ‘modular reactor’ means a combination of facilities described in subparagraph (A) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.

SEC. 509. EFFECTIVE DATE.

The amendments made by sections 503(a) and 504 do not apply to any nuclear incident that occurs before the date of the enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 511. URANIUM SALES.

(a) ENTRY DENTAL SALES.—Section 311(d) of the USEC Privatization Act (42 U.S.C. 2297n-10(d)) is amended to read as follows:

(3) (B) In addition to the transfers authorized under subsections (b), (c), and (e), the Secretary may, from time to time, sell or transfer uranium including natural uranium, enriched uranium, uranium hexafluoride, enriched uranium, and depleted uranium) from the Department of Energy’s stockpile.

(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:

<table>
<thead>
<tr>
<th>Year</th>
<th>(Million lbs. U³)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>3</td>
</tr>
<tr>
<td>2011</td>
<td>5</td>
</tr>
<tr>
<td>2012</td>
<td>7</td>
</tr>
<tr>
<td>2013</td>
<td>10</td>
</tr>
</tbody>
</table>

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

(1) by striking ‘‘$490,000,000’’ and inserting ‘‘$565,000,000’’.

(2) by adding at the end the following:

Such payments shall not exceed the following amounts:

- $90,000,000 in fiscal year 2002.
- $35,000,000 in fiscal year 2003.
- $20,000,000 in fiscal year 2004.
- $20,000,000 in fiscal year 2005.
- $20,000,000 in fiscal year 2006.
- $20,000,000 in fiscal year 2007.

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.

SEC. 512. AUTHORIZATION OF APPROPRIATIONS.

(a) REIMBURSEMENT OF THORIUM LICENSEES.—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended to read as follows:

(1) by striking ‘‘$140,000,000’’ and inserting ‘‘$565,000,000’’;

(2) by adding at the end the following:

‘‘Such payments shall not exceed the following amounts:

- $565,000,000 in fiscal year 2002.
- $35,000,000 in fiscal year 2003.
- $20,000,000 in fiscal year 2004.
- $20,000,000 in fiscal year 2005.
- $20,000,000 in fiscal year 2006.
- $20,000,000 in fiscal year 2007.

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.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

(1) by striking ‘‘$490,000,000’’ and inserting ‘‘$565,000,000’’.

(2) by adding at the end the following:

‘‘Such payments shall not exceed the following amounts:

- $90,000,000 in fiscal year 2002.
- $35,000,000 in fiscal year 2003.
- $20,000,000 in fiscal year 2004.
- $20,000,000 in fiscal year 2005.
- $20,000,000 in fiscal year 2006.
- $20,000,000 in fiscal year 2007.

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.

SEC. 513. FAST FLUX TEST FACILITY.

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

(a) any atomic energy defense activity.

(b) any space propulsion activity.

(c) 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. FUTURE RESEARCH.

The term ‘future research’ means 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 approvals and design completion in a phased approach, with joint government/industries cost sharing, which would allow for the construction and startup of new nuclear plants in the United States by 2010.

(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; and

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear stack systems and major equipment suppliers, and plant owner/operators, with strong and common 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 other sites in the areas of advanced nuclear fuel cycles and fuels testing, giving consideration to 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) the Federal Government takes any irreducible action relating to 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 considered an energy 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 development are achieved.

(b) 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.

(c) DIRECTOR.—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.

(d) 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 spent nuclear fuel and high-level radioactive waste, subject to the general supervision of the Secretary.

(2) PARTICIPATION.—The Associate Director shall coordinate and participate in the activities 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.

(3) 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 the quality of technologies that will be available in the United States if the country in which the collaborator is located is unable to provide for their support; and

(E) require research on accelerator-based transmutation systems.

(4) REQUIREMENTS FOR RESEARCH.—

(A) REQUIREMENTS FOR RESEARCH.—

(i) GENERAL.—The Secretary (or the Commission, as appropriate) shall require research efforts to address deficiencies in the technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste that are not available in the United States and that bring unique capabilities available in the United States of any facilities that the country in which the collaborator is located is unable to provide for their support.

(ii) QUALITY.—The Secretary (or the Commission, as appropriate) shall ensure that research efforts are coordinated with advanced research projects conducted by the Office of Nuclear Energy Science and Technology.

(B) REQUIREMENTS FOR RESEARCH.—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.

(a) Pil o t Program.—The Secretary of Energy shall establish a decommissioning pilot program to begin with the decontamination and decommissioning of the sodium-cooled fast breeder experimental test-site reactor located in northwestern Arkansas in accordance with the decommissioning activities contained in the Annual Report of the Nuclear Regulatory Commission (Office of the Secretary, August 31, 2000, Department of Energy report on the reactor).

(b) Authorization of Appropriations.—

(1) general.—There is authorized to be appropriated to carry out this section $16,000,000.

Subtitle D—Domestic Oil and Gas Production and Transportation

Title VI—Oil and Gas Production

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

(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. 6264) and inserting—;

(2) by striking section 256 (42 U.S.C. 6276) and inserting—;

(3) by striking section 297 (42 U.S.C. 6287) and inserting—;

(4) by striking section 317 (42 U.S.C. 6288) and inserting—;

(5) by striking section 317 (42 U.S.C. 6288) and inserting—;

(6) by striking section 317 (42 U.S.C. 6288) and inserting—;

(7) by striking section 317 (42 U.S.C. 6288) and inserting—;

(8) by striking section 317 (42 U.S.C. 6288) and inserting—;

(9) by striking section 317 (42 U.S.C. 6288) and inserting—;

(10) by striking section 317 (42 U.S.C. 6288) and inserting—;

(b) Authorization of Appropriations.—

(1) in General.—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) for construction of facilities.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended;

(3) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended;

(4) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended;

(5) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended;

(6) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended;

(7) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended; and

(8) for payment of costs.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section, to remain available until expended.

(c) Technical Amendments.—The table of contents for the Energy Policy and Conservation Act is amended by inserting the following:

(i) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(ii) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(iii) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(iv) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(v) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(vi) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(vii) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;

(viii) IGUANAD—The Associate Director shall carry out this part, to remain available until expended;
(a) Copies of the plan shall be transmitted to the Secretary of Agriculture, shall prepare a plan for carrying out the purpose of carrying out the provisions of 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 2(h)(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 federal or state plan or cooperative plan or in a special use area, to be administered by the land management agencies within the United States Forest Service that are—"

(A) abandoned;

(B) orphaned; or

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

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) PLAN. Within 6 months from the date of enactment of this section, the Secretary of the 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 Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) AUTHORIZATION OF APPROPRIATIONS. There are authorized to 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. 604. ORPHANED AND ABANDONED WELLS ON FEDERAL LAND.

(a) ESTABLISHMENT. 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 and abandoned oil and gas wells on Federal lands administered by the land management agencies within the Department of the Interior and the United States Forest Service that are—

(A) orphaned;

(B) abandoned; or

(C) idled 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.

(b) PLAN. Within 6 months from the date of enactment of this section, the Secretary of the 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 Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) AUTHORIZATION OF APPROPRIATIONS. There are authorized to 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. ORPHANED AND ABANDONED OIL AND GAS WELL PROGRAM.

(a) ESTABLISHMENT. The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned and abandoned exploration or production wells 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 orphaned abandoned and orphaned wells on State and private lands.

(b) PROGRAM ELEMENTS. The program shall include—

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

(2) criteria for selecting 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 SUBSALT EXPLORATION.—Notwithstanding any other provision of law or regulation, the Secretary may grant a request for a suspension of operations under any lease to allow the lessee to reprocess available geologic or geophysical data or otherwise mitigate environmental risk of future operations.

The Secretary's judgment such suspension 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. COALESED METHANE STUDY.

(a) STUDY. The National Academy of Sciences shall conduct a study on the effects of coalbed methane production on surface and water 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 coalbed methane;

(2) depletion of groundwater aquifers or drinking water sources associated with production of coalbed methane;

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

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

(d) COMPLETION OF STUDY. The National Academy of Sciences shall submit the study to the Secretary of the Interior within 18 months after the date of enactment of this Act, and shall make the study available to the public at the same time.

(e) REPORT TO CONGRESS. The Secretary of the Interior shall report to Congress within 6 months of her receipt 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 effects of coalbed 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 Federal and State 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 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 policies on the development of onshore and offshore oil and gas resources under different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, deep oil and gas exploration, and development of unconventional oil and gas formations;

(3) assess the extent to which Federal and State policies negatively impact the ultimate recovery of resources from existing fields and smaller accumulations in offshore waters, especially in water depths less than 800 meters, of the Gulf of Mexico;

(4) compare existing Federal and State policies with tax and royalty regimes 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 for policy changes 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 in receiving the economic benefits of tax and royalty revenues is balanced with the broader national security, economic benefits of increased recovery of domestic resources. The report should include recommendations regarding actions to—

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

(2) minimize the negative impact of a volatile investment climate on the oil and gas service industry and domestic oil and gas 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 Secretary of the Interior, in consultation with the member States of the Interstate Oil and Gas Compact Commission, shall—

(1) fill the Strategic Petroleum Reserve established pursuant to title I of the Energy Security Act of 2001, and

(2) fill the Strategic Petroleum Reserve established pursuant to title I of the Energy Security Act of 2001.
Policy and Conservation Act (42 U.S.C. 6231 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 lands; and
(3) to 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 Act 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:

"(e) 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 known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, 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, drinking water systems, State and local authorities, 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 paragraph (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)(B)) drinking water sources or resources, including those sources within specific regions, States or portions of States;
"(ii) there are specific methods, practices, or technologies in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and
"(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.

"(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—
The Administrator shall complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation required under paragraph (C) of this subsection.
"(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in paragraphs (1), (2), and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing 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. Such study shall complete this separate study prior to the completion of the broader study of hydraulic fracturing addressed in the separate study.
"(ii) The Administrator shall complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation in no event later than 24 months after the date of enactment of this Act, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.
"(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on—
"(i) findings related to the study conducted by the Administrator under paragraph (1);
"(ii) the scientific and technical basis for such findings; and
"(iii) recommendations, if any, for modifying the findings of the study.

"(2) INDEPENDENT SCIENTIFIC REVIEW.—
"(A) IN GENERAL.—In the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions reached by the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either—
"(I) if such regulation of hydraulic fracturing under this part is necessary 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; or
"(II) if such regulation is unnecessary.

"(B) REGULATION NECESSARY.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

"(3) REGULATORY DETERMINATION.—
"(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either—
"(I) that regulation of hydraulic fracturing under this part is necessary 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; or
"(II) that regulation described under clause (i) is unnecessary.

"(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

"(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) of their obligation to regulate hydraulic fracturing (as defined under paragraph (4) of this subsection) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

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

"(6) SAVINGS.—Nothing in this section shall limit the authority of the Administrator under section 1431 (42 U.S.C. 300i), .".

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be 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 State of Alabama to assist in the implementation of its regulatory program under section 1425 of the Safe Drinking Water Act.

SEC. 612. PRESERVATION OF OIL AND GAS RESOURCES.
The Secretary of the Interior, through the United States Geological Survey, shall enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and 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 fair and existing authority to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.

TITLE VII—NATURAL 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 2003”.
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 demand for natural gas.
(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 extension, approval, construction, and initial operation of an Alaska natural gas transportation project, as an alternative to the framework provided in the Alaska Natural Gas Transportation System Act of 2001 (15 U.S.C. 719-719o), which remains in effect;
(2) to establish a process for providing access to such transportation project in order to promote competition in the exploration, development and production of Alaska natural gas; and
(3) to clarify Federal authorities under the Alaska Natural Gas Transportation Act; and authorize Federal financial assistance to an Alaska natural gas transportation project as provided in this subtitle.
SEC. 704. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719n), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717c)(c), issue an order authorizing the construction and operation of an Alaska natural gas transportation project if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717e)(e).

(b) ISSUANCE OF CERTIFICATE.—(1) 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 this section and the certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under section 704 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) The Commission shall issue a draft statement under this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 705.

(c) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline or other project for the transportation of any natural gas, except for permits, authorizations, or other permissions required on Federal lands, shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.

(d) ISSUANCE OF CERTIFICATE.—The Commission may issue regulations to carry out the provisions of this section.

SEC. 705. ENVIRONMENTAL REVIEWS.

(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 704 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(b) DESIGNATION OF LEAD AGENCY.—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 702(1)(c) of this Act (42 U.S.C. 4332(1)(c)) with respect to any Alaska natural gas transportation project under section 704. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of 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 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 the National Environmental Policy Act of 1969 (42 U.S.C. 4332(1)(c)) with respect to such project.

(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not 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 issuance of the draft statement, unless the Commission for good cause finds that additional time is needed.

SEC. 706. PIPELINE EXPANSION.

(a) AUTHORITY OF THE COMMISSION.—The Commission may approve the expansion of any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, order that such action be taken, if the Commission determines that such expansion is consistent with the then-effective tariff of the Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.

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

(1) approve or establish rates for the expansion service that will ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable return on 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 of service will be undertaken and implemented in a manner consistent with the then-effective tariff of the Alaska natural gas transportation project;

(4) find that the construction and operation of the proposed facilities, 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 or will be completed; and

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

SEC. 707. GAS TARIFFS.

(a) AUTHORITY OF THE COMMISSION.—The Commission may order the expansion of such service as the Commission determines to be in the public interest.

(b) DESIGNATION OF LEAD AGENCY.—The Federal Coordinator shall be the lead agency for purposes of complying with the Natural Gas Act (15 U.S.C. 1571 et seq.) and shall be responsible for preparing the statement required by section 702(1)(c) of this Act (42 U.S.C. 4332(1)(c)) with respect to any Alaska natural gas transportation project.

(c) OTHER AGENCIES.—All Federal agencies considering aspects of 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 in the preparation of the statement under this section.

The Federal Coordinator shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(1)(c)) with respect to such project.

SEC. 708. FEDERAL COORDINATOR.

(a) ESTABLISHMENT.—There is established as an independent establishment in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.

(b) LOCATION.—The Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects shall be located in the State of Alaska and shall be headed by a 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).

(c) 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;

(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.

SEC. 709. FEDERAL AGENCIES.

(a) AUTHORITY OF THE COMMISSION.—The Federal Coordinator shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.

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

(1) approve or establish rates for the expansion service that will ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable return on 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 of service will be undertaken and implemented in a manner consistent with the then-effective tariff of the Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.

(4) Unless required by law, no Federal officer or agency shall add to, amend, or arrogate any Federal right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of the project.

(c) STATE COORDINATION.—The Federal Coordinator shall enter into a joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction and operation of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility with responsibility for the Alaska natural gas transportation project crossing Federal lands and private lands, and the State government.
shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.

SEC. 708. JUDICIAL REVIEW.

(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;

(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 with respect to any action under this subtitle.

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

(c) 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 as described in section 702 of this subtitle.

(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 paragraphs at the end:

"(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 OVER IN-STATE TRANSPORTATION 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. 717), and therefore not subject to the jurisdiction of the Federal Energy Regulatory Commission.

(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in subsection 704(d), shall apply to pipeline facilities 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. In exercising such authority, the Commission, pursuant to Section 13(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 off 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 of any loan made to the holder of a certificate of public convenience and necessity issued under section 704(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) for the purpose of constructing an Alaska natural gas transportation project.

(b) CONDITIONS.—(1) The Secretary of Energy may not guarantee a loan under this section unless the guarantee has been filed with 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 subtitle.

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

(3) Loan requests, including term, maximum rate, collateral requirements and other features shall be determined by the Secretary.

(c) LIMITATION ON AMOUNT.—Commitments to guarantee loans under section 704(d) of this subtitle exceed $10,000,000.

(d) REGULATORY PRECEDENTS.—The Secretary of Energy may issue regulations to carry out the provisions of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 503(f) of the Federal Credit Reform Act of 1990 (2 U.S.C. 66a(i)).

SEC. 711. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.

(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission within 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 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 his study, his recommendations, and any proposed legislative or regulatory actions that he recommends to the Congress within 6 months after the expiration of the Secretary of Energy’s authority to guarantee a loan under section 710.

SEC. 712. CLARIFICATION OF ANGTA STATUS AND AUTHORITY.

(a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or any Presidential 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 certificate, permit, right-of-way, 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 or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including alternative combinations of Government and private corporate ownership), so long as such action does not compel a change in the basic nature and terms and conditions of the certificate, permit, right-of-way, lease, or other authorization, or tariff specifications, so long as such action does not compel a change in the basic nature and general rule of the Alaska Natural Gas Transmission System as implemented as described in section 2 of the President’s Decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of the project.

(c) UPDATED ENVIRONMENTAL REVIEWS.—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.

SEC. 713. DEFINITIONS.

For purposes of this subtitle:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.

(2) The term "Alaska natural gas transportation project" means an Alaska 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—

(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719-719g); or

(b) section 704 of this subtitle.

(3) The term "Alaska Natural Gas Transportation System" means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President’s Decision.


(5) The term "President’s Decision" means the Decision and Report to Congress on the Alaska Natural Gas Transportation system issued by the President on September 22, 1977 pursuant to the requirements of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719c) and approved by Public Law 95-158.

SEC. 714. SENSE OF THE SENATE.

It is the sense of the Senate that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize these benefits the Senate urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement that will enhance employment and contracting opportunities for Alaskan residents. The report shall describe any laws, rules, regulations and policies which act to hiring Alaskan residents or contracting with Alaskan residents to perform work on Alaska gas pipelines, together with any recommendations for change. For purposes of this report and program described in this subsection, 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 Alaskan residents in the skills and crafts required in the design, construction and operation of the Alaska natural gas transportation project.
Subtitle B—Operating Pipelines

SEC. 721. ENVIRONMENTAL REVIEW AND PERMITTING OF NATURAL GAS PIPELINE PROJECTS.

(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 a comprehensive understanding of the need for, and the purpose and use of, natural gas pipelines. The task force shall report to the Congress and the Federal Energy Regulatory Commission on the need for, and future demand on, natural gas pipelines by January 1 of each year.

(b) REPORT 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 and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.

(c) REPORT TO INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the Congress and the Federal Energy Regulatory Commission reports assessing the Secretary’s performance with respect to implementing the recommendations referred to in section 721(a).

SEC. 763. QUALIFICATIONS OF PIPELINE PERSONNEL.

(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.

(b) REQUIREMENTS.—An enhanced qualification plan shall include, at a minimum, a criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification when appropriate.

(c) INTEGRITY MANAGEMENT.—The Secretary shall establish, and insured pipeline facilities located in or under the authority of the States and operators to address safety concerns.

SEC. 764. PIPELINE INTEGRITY INSPECTION PROGRAM.

(a) REQUIREMENTS.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas pipelines to evaluate the risks to the operator’s pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than 1 year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2003, whichever is sooner.

(b) STANDARDS FOR PROGRAM.—In promulgating the regulations under this section, the Secretary shall require an operator’s integrity management plan to be based on risk analysis and each plan shall include, at a minimum—

(1) a description of the methodology used to assess the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods. The inspection period shall be no less than every 5 years unless the Secretary determines there is not a sufficient capability or it is deemed unnecessary because of more technically appropriate monitoring or creates undue interruption of necessary supply to fulfill the requirements under this section.

(2) a written plan to assess the results of the periodic assessment methods carried out under paragraph (1) and procedures to ensure identified problems are corrected in a timely manner;

(3) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity assessment, and new flow devices, or other measures.

(c) CRITERIA FOR PROGRAM.—In deciding how frequently the integrity assessment and reinspection methods carried out under paragraph (2) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects continuing to exist in the construction or the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspection and pressure testing

(d) STATE ROLE.—A. The States and operators to address safety concerns.

SEC. 765. PIPELINE INTEGRITY INSPECTION PROGRAM.

(a) REQUIREMENTS.—The Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator pipeline integrity plan. The process shall include—

(1) a requirement that an operator of a hazardous liquid pipelines or natural gas pipeline provide information about the risk analysis and integrity management plan required under this section to local officials in a State where the pipeline facility provides information about a risk analysis and integrity management plan required under this section to local officials in a State where the pipeline facility

(2) 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 by the State, or the submission of written comments through traditional or electronic means;

(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another manner in which the local officials or the Secretary determine is hazardous to life, property, or the environment;

(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 decide 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, techniques, or procedures that the Secretary decides is hazardous to life, property, or the environment.”; and

(b) by striking "hazardous," in subsection (d) and inserting "hazardous 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.

(a)Pipeline 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 one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unrestrained releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing emergency program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency. Such a program will be periodically reviewed by the Secretary or, in the case of a pipeline facility operator, the appropriate State agency.

(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.

(b)Emergency Preparedness.—

(1) Operator Liaison.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and 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. 5102), 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 planning committees and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public in accordance with the format described in section 60102(d), the operator’s program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—

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

(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure and temperature of the product or products;

(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;

(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and

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

(2) Smaller Communities.—In a community without a local emergency response committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.

(c) Public Access.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.

(d) Community Right-To-Know.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2003, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility and the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The 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 programs to their activities to promote pipeline safety.

(2) Public Availability of Reports.—The Secretary shall—

(A) make the report available to the public;

(B) a report of a pipeline incident filed by an operator under section 60102(h); and

(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; 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 program information in this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.”;

(b) Safety Condition Reports.—Section 60102(h)(2) is amended by striking "authorities," and inserting "officials, including the local emergency responders.”;

(c) Conforming Amendment.—The chapter analysis chart is amended by striking the item relating to section 60116 and inserting the following:

"6016. Public education, emergency preparedness, and community right-to-know."

SEC. 767. PENALTIES.

(a) Civil Penalties.—Section 60122 is amended—

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

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

(b) Criminal Penalties.—The preceding subsection does not apply to judicial enforcement action under section 60120 or 60121; and

(c) Aggravated Subsection (b) and inserting the following:

"(b) Penalty Considerations.—In determining the amount of a civil penalty under this section—

(1) the Secretary shall consider—

(A) the nature, 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 violation without any discount because of subsequent damages; and

(B) other matters that justice requires."

(c) Exculpative Damage.—Section 60123(d) is amended—

(1) by striking "knowingly and willfully"; and

(2) by inserting "knowingly and willfully" before "engages" in paragraph (1); and

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

"(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or"

(e) Civil Actions.—Section 60120(a)(1) is amended to read as follows:

"(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, in the case of section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60622.

SEC. 768. STATE OVERSIGHT ROLE.

(a) State Agreements With Certification.—Section 60106 is amended—

(1) by striking "GENERAL AUTHORITY," in subsection (a) and inserting "AGREEMENTS WITHOUT CERTIFICATION,";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and

(3) by inserting after subsection (a) the following:

"(b) Agreements With Certification.—

(1) In General.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties.

Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.

(d) Determination Required.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—

(1) the agreement allowing participation of the State authority is consistent with the Secretary’s program for inspection and consistent
(B) the interstate participation agreement would not adversely affect the oversight responsibilities of the interstate pipeline transportation by the State authority;

(C) the State is carrying out a program demonstrated to provide preparedness and risk prevention activities that enable communities to live safely with pipelines;

(D) the State meets the minimum standards for State one-call notification set forth in chapter 61.

(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

(3) Existing agreements.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 1999 to continue interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice and opportunity to cure any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

(A) the State authorities fails to comply with the terms of the agreement;

(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of interstate pipeline transportation by the State authority; or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.

(b) Ending agreements.—Subsection (e) of section 60117 is amended by adding at the end the following:

"(f) Mandatory termination of agreements.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation by the Secretary if the Secretary finds that—

(A) implementation of such an agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety;

(3) Procedural requirements.—The Secretary shall give the notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may end an agreement under this section when the Secretary finds that continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

SEC. 709. RESEARCH AND DEVELOPMENT.

(a) Innovative technology development.—In general.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research and development to the development of alternative technologies—

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

(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;

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

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

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

(2) Cooperate.—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.—In general.—The Secretary of Transportation, in cooperation 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 assessment methodology, and information systems surveys; and

(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas and hazardous liquid pipelines issues existing on the date of enactment of this Act.

(2) Purpose.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—

(A) ensure long-term safety, reliability, and service life for existing pipelines;

(B) improve the capability, reliability, and practicality of internal inspection devices to identify and accurately measure defects and anomalies;

(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(E) develop improved materials and coatings for use in pipelines;

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

(G) identify underground environments that might lead to shortened service life;

(H) enhance safety in pipeline siting and land use;

(I) minimize the environmental impact of pipelines;

(J) demonstrate technologies that improve pipeline reliability, and integrity;

(K) provide risk assessment tools for optimizing risk mitigation strategies; and

(L) provide highly secure information systems for controlling the operation of pipelines.

(3) Areas.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil, and petrochemical pipelines for—

(A) early crack, defect, and damage detection, including real-time damage monitoring;

(B) automated internal pipeline inspection sensor systems;

(C) land use guidance and site management along pipeline rights-of-way for communities;

(D) intelligent corrosion control;

(E) corrosion-resistant coatings;

(F) improved cathodic protection;

(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(I) longer life, high strength, non-corrosive pipeline materials; and

(J) assessing the remaining strength of existing pipelines;

(K) risk and reliability analysis models, to be used to identify safety improvements that could be made in the near term, resulting from analysis of data obtained from a pipeline performance tracking initiative;

(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(M) any other areas necessary to ensuring the public safety and protecting the environment.

4. Points of contact.—

(a) In general.—To coordinate and implement the research and development programs and activities authorized under this subsection—

(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department whose appointment has been approved by the President and confirmed by the Senate; and

(ii) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department whose appointment has been approved by the President and confirmed by the Senate; and

(iii) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department whose appointment has been approved by the President and confirmed by the Senate.
agreement available to the Secretary consistent with applicable provisions of law, including the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, and any other research organizations, in arranging cooperative agreements for research, demonstration program plan under paragraphs (3) and (6).

(5) Research and Development Program Plan.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation shall have primary responsibility for ensuring that the Secretary shall report to the Congress an ongoing role in evaluating the progress of the research, development, and results of the research, development, and implementation of the research and development demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Education shall consult with appropriate representatives of the natural gas, crude oil, and pipeline industries to select and prioritize appropriate program proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher education, research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(6) Implementation.—The Secretary of Transportation shall have primary responsibility for ensuring that the 5-year plan provided for in paragraph (4) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Education shall, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(7) Reports to Congress.—The Secretary of Transportation shall report to the Congress annually on the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Education, the research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

SEC. 771. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) Establishment.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish the Pipeline Integrity 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, and demonstration program plan 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 carried out under that section.

(b) Members.—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 a broad range of qualifications and technical contributions to 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:—

(1) GAS AND HAZARDOUS LIQUID.—(A) In general.—(B) DUTIES.—

(c) Oil Spills.—Section 60125 is amended by redesigning subsections (d), (e), (f), and (g) as subsections (e), (f), (g) and inserting after subsection (c) the following:

(d) Oil Spill Liability Trust Fund.—Of the amounts available in the Oil Spill Liability Trust Fund, $20,000,000 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.

(e) Pipeline Integrity Program.—(1) There are authorized to be appropriated to the Secretary for the purpose of carrying out sections 770(b) and 771 of this title $3,000,000, to remain available for each of 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), $3,000,000 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 title for each of the fiscal years 2003 through 2007.

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

SEC. 773. OPERATOR ASSISTANCE IN INVESTIGATION.

(a) In General.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make representatives 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 inserting "(1)" after "Corrective Action Orders"; and

(2) by adding at the end the following:

[FOR OFFICIAL REPRODUCTION SEE CONGRESSIONAL RECORD, PART I, V. 147 (2003), P. 394.]

[CONGRESSMAN GARRETT J. OLORUNFEMI, JR. (D-NJ) APPEARS AS FOLLOWING:

A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have anyone file on his behalf) 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 alleged to have committed the violation 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 Secretary of Labor's conclusions of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(a) Investigation; Preliminary Order.—

(1) In General.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affirming the person named in the complaint an opportunity to respond 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 of Labor 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 a violation of any of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, he or she may issue an order requiring the employer to cease and desist from violating any of the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of receipt of the preliminary order, either the person alleged to have committed the violation or the complainant may file objections to the preliminary order including any additional relief that the complainant may seek to affirm the complaint in whole or in part.

(2) Investigation; Preliminary Order.—

(a) In General.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affirming the person named in the complaint an opportunity to respond 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 of Labor 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 a violation of any of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, he or she may issue an order requiring the employer to cease and desist from violating any of the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of receipt of the preliminary order, either the person alleged to have committed the violation or the complainant may file objections to the preliminary order including any additional relief that the complainant may seek to affirm the complaint in whole or in part.

(3) Order.—

(A) In General.—If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, he or she shall issue an order requiring the employer to cease and desist from violating any of the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of receipt of the preliminary order, either the person alleged to have committed the violation or the complainant may file objections to the preliminary order including any additional relief that the complainant may seek to affirm the complaint in whole or in part.

(4) Assistant Secretary.—The Secretary of Labor shall have the authority to appoint an assistant secretary to assist the Secretary in the performance of the duties of the Secretary under this Act.
to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted if the employer demonstrates, by clear and convincing evidence, that a complaint filed under subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) Showing by Employer.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(v) Prohibition.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(vi) Final Order.—[...

(a) Appeal to Court of Appeals.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States courts of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resides. Any such application 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 the rule of section 704 of title 28, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(b) Limited Judicial 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 civil proceeding.

(c) Enforcement of 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 the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this section, the Secretary shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

(d) Enforcement of Order by Parties.—[...

(e) Attorneys Fees.—[...

(f) Mandamus.—[...

(g) Mandamus.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1651 of title 28, United States Code.

(h) Nonapplicability to Deliberate Violations.—Subsection (a) shall not apply with respect to a violation of subsection (b) if the violation was caused, or the person who committed the violation was an agent, by a parent or subsidiary without the direction of the parent or subsidiary or by a parent or subsidiary without the direction of a subsidiary.

(i) Contractor Defined.—In this section, the term ‘contractor’ means a company that performs safety-sensitive functions by contract for a pipeline.

(j) Civil Penalty.—[...

(k) Civil Penalty.—[...

(l) Protection of Employees Providing Pipeline Safety Information.—Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation may award to the prevailing employer a reasonable attorney’s fee not exceeding $1,000.

(4) Review.—[...

(A) Appeal to Court of Appeals.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States courts of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resides. Any such application 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 the rule of section 704 of title 28, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) Limited Judicial 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 civil proceeding.

(C) Enforcement of 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 the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this section, the Secretary shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

(D) Enforcement of Order by Parties.—[...

(E) Attorneys Fees.—[...

(F) Mandamus.—[...

(G) Nonapplicability to Deliberate Violations.—Subsection (a) shall not apply with respect to a violation of subsection (b) if the violation was caused, or the person who committed the violation was an agent, by a parent or subsidiary without the direction of the parent or subsidiary or by a parent or subsidiary without the direction of a subsidiary.

(H) Contractor Defined.—In this section, the term ‘contractor’ means a company that performs safety-sensitive functions by contract for a pipeline.

(I) Civil Penalty.—[...

(J) Civil Penalty.—[...

(K) Protection of Employees Providing Pipeline Safety Information.—Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation may award to the prevailing employer a reasonable attorney’s fee not exceeding $1,000.

(4) Review.—[...
DIVISION C—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE VIII—FUels and VEHICLES

Subtitle A—CAFE Standards, Alternative Fuels, and Advanced Technology

SEC. 801. INCREASED FUEL ECONOMY STANDARDS

(a) Requirement for New Regulations.—

(1) IN GENERAL.—The Secretary of Transportation shall issue, under section 32902 of title 49, 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 the automobiles, taking into consideration the matters set forth in subsection (f) of this section.

(2) TIME FOR ISSUING REGULATIONS.—

(A) NON-PASSENGER AUTOMOBILES.—For non-passerger automobiles, the Secretary of Transportation shall issue—

(i) the proposed regulations not later than 180 days after the date of the enactment of this Act; and

(ii) the final regulations not later than 18 years after that date.

(B) PASSENGER AUTOMOBILES.—For passenger automobiles, the Secretary of Transportation shall—

(i) actions by the Secretary that support the

(ii) use of resources available to the Secretary for carrying out this chapter, with protecting the

(iii) technical assistance to an operator of a pipeline

(iv) facilities, with protecting public safety, or with

(v) information that is described in section

(vi) with withholding certain information

(vii) the Secretary, containing a summary of determinations

(viii) issued pursuant to subsection (a) shall specify

(ix) the proposed regulations not later than 180 days after that date.

(x) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end of the following: "or such other number as the Secretary prescribes at the time of the regulations," the following:

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under this section, the Secretary of Transportation shall also include an environmental assessment of the effects of the implementation of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Transportation for fiscal years 2003, to remain available until expended, $2,000,000 to carry out this section.

SEC. 802. EXPEDITED PROCEDURES FOR CONSIDERATION OF REGULATIONS AFFECTING FUEL ECONOMY STANDARDS

(a) Condition for Applicability.—If the Secretary of Transportation fails to issue required regulations with respect to non-passerger automobiles under section 801, or fails to issue final regulations with respect to passenger automobiles under each section, on or before the date by which such final regulations are required by such section to be issued, respectively, then such final regulations shall be deemed to refer to the bill described in subsection (b).

(b) Bill.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: "A bill to establish new average fuel economy standards for certain motor vehicles."

(3) TEXT.—The bill provides for the enacting clause in a form specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a facility, to issue final regulations relating to non-passerger automobiles, the following text:

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

(1) 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

(2) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year shall be miles per gallon.

(3) The first blank space filled in with a number, the second blank space filled in with the number of a year, and the third blank space being filled in with a number,

(4) The need of the United States to conserve energy.
any tax incentives available to retail purchasers, taking into account the benefit of higher than the difference between light-duty vehicles available for meeting the requirements applicable to the procurement of fleet vehicles for that agency for that fiscal year for the purposes of paragraph (1) to that agency to the extent that the head of that agency determines necessary—
(A) to meet specific requirements of the agency for capital-goods procurement; 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 commercial availability of 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 costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—
(i) the real cost of the 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
(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.
SEC. 805. PROCUREMENT OF ALTERNATIVE FUELS AND HYBRID LIGHT DUTY TRUCKS. (a) VEHICLE FleETS NOT COVERED BY REQUIREMENTS OF ENERGY POLICY ACT OF 1992.—
(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, of the light-duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light-duty vehicles of the agency to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies—
(A) 10 percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and
(B) 10 percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.
(2) COUNTING OF TRUCKS.—Light-duty trucks acquired for an agency of the executive branch that are counted to satisfy section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) for a fiscal year shall be counted to determine the total number of light-duty trucks procured for that agency for that fiscal year for the purposes of paragraphs (1) and (2) of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) not to be counted to satisfy the requirement in that paragraph.
(c) DEFINITIONS.—In this section:
(1) HYBRID VEHICLE.—The term ‘‘hybrid vehicle’’ means—
(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—
(i) an internal combustion or heat engine using combustible fuel; and
(ii) a rechargeable energy storage system; and
(B) any other vehicle defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the purposes of title III of the Energy Policy Act of 1992.
(2) ALTERNATIVE FUELS.—The term ‘‘alternative fuels’’ has the meaning given in section 101 of the Energy Policy Act of 1992 (42 U.S.C. 13211).
(3) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 3101 of title 10, United States Code.
(4) AGENCY FLEET.—The term ‘‘agency fleet’’ means—
(A) the fleet of vehicles of an agency of the executive branch; or
(B) 10 percent of the total number of such vehicles that are procured in each fiscal year for the purposes of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) for an agency of the executive branch that is subject to the comparable requirements under section 3101 of title 10, United States Code.
(5) COMPLIANCE.—This section—
(A) shall be enforced by the Secretary of Energy; and
(B) is subject to the Federal Acquisition Regulations.
(b) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator of General Services, may waive the applicability of this section to vehicles of that agency that are not involved in assisting the Secretary to achieve the energy, environmental, or health benefits of this section, or any part thereof, if the head of that agency determines necessary—
(1) to meet specific requirements of the agency for capital-goods procurement; or
(2) to comply with other requirements or obligations of the United States.
(c) 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 research and development programs of the Department of Energy on transportation technologies for use on passenger cars, light trucks, and larger passenger vehicles of model years after 2003.
(2) PNGV.—The term ‘‘PNGV program’’ means the Partnership for a New Generation of Vehicles, a cooperative program engaged in research and development programs of the Department of Energy on transportation technologies for use on passenger cars, light trucks, and larger passenger vehicles of model years after 2003.
(3) FLEET.—The term ‘‘fleets’’, with respect to the PNGV program, has the meaning given in section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13211).
(4) ADVANCED FUEL VEHICLES.—The term ‘‘advanced fuel vehicles’’ means the term ‘‘dual fueled automobile’’ in section 3209(a)(8) of title 49, United States Code.
(5) ADVANCED FUEL VEHICLES.—The term ‘‘advanced fuel vehicles’’ means the term ‘‘dual fueled automobile’’ in section 3209(a)(8) of title 49, United States Code.
(6) ADVANCED FUEL VEHICLES.—The term ‘‘advanced fuel vehicles’’ means the term ‘‘dual fueled automobile’’ in section 3209(a)(8) of title 49, United States Code.
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 composition of the fleets 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 agriculture-based biodiesel fuels), natural gas, and ultra-low sulfur diesel;
(4) buses that are powered by clean diesel engines;
(5) an assortment of buses described in paragraphs (1), (2), and (3); or
(6) market price data.

(b) REPORT.—

(1) REQUIREMENT.—The Secretary of Transportation shall submit a report on the results of the study and its findings 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) Replacement of power and propulsion systems in buses utilizing current 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 be no less than 25 miles per gallon as an average of all pickup trucks manufactured by that manufacturer in that model year."

(b) DEFINITION OF PICKUP TRUCK.—Section 32901(a) of this title is amended by adding at the end the following:

"(17) 'pickup truck' means a truck, including for the purposes of this section, a truck drawing its power from an engine other than an engine integral to the truck, that is manufactured primarily for use by individuals for personal transportation and that is classified as a truck under regulations prescribed by the Secretary of Transportation for the administration of this chapter after such date."

SEC. 812. EXCEPTION TO HOW PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 108(b)(1)(C) 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 used for a purpose other than being fueled by an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))."
9101 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.) 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 private sector fuel cell bus developers 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 such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—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) 15 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) EVALUATION.—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 the following:

(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 through 816—

(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 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:

(2) a low-speed vehicle, as such term is defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13231 et seq.), and

(b) TREATMENT AS SECTION 308 CREDITS.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by inserting at the end of paragraph (1) the following:

(2) TREATMENT AS SECTION 308 CREDITS.—

Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended by adding at the end the following:

(3) CREDIT FOR NEW QUALIFIED HYBRID VEHICLE MILEAGE—

The term ‘new qualified hybrid vehicle’ means a vehicle that qualifies as both a low-speed vehicle and a dual fueled vehicle or a neighborhood electric vehicle;

(4) by striking the period at the end of paragraph (14) and inserting ‘‘; and’’; and

(5) by adding at the end the following:

(A) $80,000,000 for fiscal year 2003;

(B) $70,000,000 for fiscal year 2004;

(C) $60,000,000 for fiscal year 2005; and

(D) $50,000,000 for fiscal year 2006.

**SEC. 818. NEIGHBORHOOD ELECTRIC VEHICLES.—**


(1) by striking ‘‘(d) and inserting ‘‘; and

(2) by striking paragraph (14) and inserting ‘‘; and

(3) by adding at the end the following:

(i) draws propulsion energy from both an internal combustion engine (or heat engine that uses combustible fuel); and

(ii) an energy storage device; or

(iii) in the case of a passenger automobile or light truck—

(A) 2002 or later model vehicle, or

(B) 2003 or later model vehicle, or

(C) 2004 or later model vehicle, and such vehicle receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the applicable qualifying California low emissions vehicle standards established under authority of section 242(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model vehicle and

(iv) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the applicable qualifying California low emissions vehicle standards established under authority of section 242(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model vehicle and

(v) in the case of a 2004 or later model vehicle, and such vehicle uses an energy storage device that recovers waste energy to charge an energy storage device.

**SEC. 819. CREDIT FOR NEW QUALIFIED HYBRID VEHICLES.—**

The term ‘new qualified hybrid vehicle’ means a vehicle that—

(1) draws propulsion energy from both an internal combustion engine (or heat engine that uses combustible fuel); and

(2) has the meaning given the term in regulations promulgated by the Secretary for purposes of the administration of title I of the Clean Air Act (42 U.S.C. 7521 et seq.).

**SEC. 820. ALLOCATION.—**

(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person that—

(i) demonstrates the use of fuel cell-powered school buses for carrying out a project in accordance with section 815; and

(ii) uses the funds described in clause (i) to purchase a fuel cell-powered school bus that is used to transport students during school hours in a school district located in a rural area.
under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under any of the tables in subparagraph (C).

(A) 1 credit shall be equal to the sum of:

(i) the credits determined under table 1 in subparagraph (C); and

(ii) the partial credits determined under table 2 in subparagraph (C).

Table 1

<table>
<thead>
<tr>
<th>Partial credit for increased fuel efficiency</th>
<th>Amount of credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 125% but less than 150% of 2000 model year city fuel efficiency</td>
<td>.14</td>
</tr>
<tr>
<td>At least 175% but less than 200% of 2000 model year city fuel efficiency</td>
<td>.21</td>
</tr>
<tr>
<td>At least 225% but less than 250% of 2000 model year city fuel efficiency</td>
<td>.28</td>
</tr>
<tr>
<td>At least 250% but less than 225% of 2000 model year city fuel efficiency</td>
<td>.35</td>
</tr>
<tr>
<td>At least 275% but less than 250% of 2000 model year city fuel efficiency</td>
<td>.50</td>
</tr>
</tbody>
</table>

Table 2

<table>
<thead>
<tr>
<th>Partial credit for Maximum available Power</th>
<th>Amount of credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 5% but less than 10%</td>
<td>.125</td>
</tr>
<tr>
<td>At least 20% but less than 25%</td>
<td>.250</td>
</tr>
<tr>
<td>At least 30% but less than 35%</td>
<td>.375</td>
</tr>
<tr>
<td>At least 40% but less than 50%</td>
<td>.500</td>
</tr>
</tbody>
</table>

(B) MEDIUM OR HEAVY DUTY VEHICLE—The term 'medium or heavy duty vehicle' includes a vehicle that:

(i) operates solely on alternative fuel; and

(ii) 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

(iii) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

(C) SUBSTANTIAL CONTRIBUTION—The term 'substantial contribution' (equal to 1 full credit) means a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

(2) USE OF CREDITS.—At the request of a fleet or 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 acquires a medium or heavy duty dedicated vehicle.

(ii) the ratio that

(iii) bears to

(iv) (a) is produced from grain, starch, oilseeds, or other biomass; or

(b) is natural wood furnish produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decay organic material is found; and

(c) used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 332(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

(ii) SMALL REFINERY—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

(iii) RENEWABLE FUEL PROGRAM.—

(A) In general.—Not later than 1 year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States, on an equivalent basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall impose, or impose any use of, a per-gallon obligation on the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004, 2 in 2005, 2.3 in 2006, 2.6 in 2007, 3.2 in 2008, 3.5 in 2009, 3.9 in 2010, 4.3 in 2011, and 4.7 in 2012.

(B) APPLICABLE VOLUME.—

(i) Calendar years 2004 through 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>(In billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2.3</td>
</tr>
<tr>
<td>2005</td>
<td>2.6</td>
</tr>
<tr>
<td>2006</td>
<td>2.9</td>
</tr>
<tr>
<td>2007</td>
<td>3.2</td>
</tr>
<tr>
<td>2008</td>
<td>3.5</td>
</tr>
<tr>
<td>2009</td>
<td>3.9</td>
</tr>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(ii) Calendar year 2013 and thereafter.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of gasoline that the Administrator, estimates, will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(a) 5.0 billion gallons of renewable fuels bears to

(b) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

(C) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the applicable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors, and importers, as appropriate, for the coming calendar year. To the extent that the requirements of paragraph (2) are met.

(i) In general.—The term 'renewable fuel' means motor vehicle fuel that—

(ii) is used to replace or reduce the quantity of fossil fuel present in fuel mixture used to operate a motor vehicle.
single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments for the use of renewable fuels by exempt small refineries during the previous year.

(4) CELLULOUS BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

(5) CREDIT PROGRAM.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by refineries, blends, and importers of gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall be consistent with the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

(6) USE OF CREDITS.—A person that generates credits under paragraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(7) EMISSIONS REPORTS.—Any person that is unable to generate or purchase renewable fuels deficit provided that, in the calendar year following any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewable credits to offset the renewables deficit of the previous year.

(8) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—The regulations promulgated under paragraph (6) shall take into consideration seasonal variations in the use of renewable fuels.

(9) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator promulgates regulations under paragraph (6) that contain provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewable credits to offset the renewables deficit of the previous year.

(10) STUDY.—For each calendar year 2004 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of the renewable fuels requirement and determinations to assess whether there are excessive seasonal variations in the use of renewable fuels.

(11) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator promulgates regulations under paragraph (6) that contain provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewable credits to offset the renewables deficit of the previous year.

(12) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

(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 each subsequent calendar year;

(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

(13) PERIODS.—The two periods referred to in this paragraph are—

(i) January through September; and

(ii) January through March and October through December.

(14) EXCLUSIONS.—Renewable fuels blended or consumed in 2004 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).
(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 share of gasoline containing each of the following:

(1) conventional gasoline containing ethanol;
(2) reformulated gasoline containing ethanol;
(3) conventional gasoline containing renewable fuel; and
(4) reformulated gasoline containing renewable fuel;

(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 conducted and that the Administrator is given access to such records and reports.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(a) RENEWABLE FUELS SAFE HARBOR.—

(A) 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 manufacturing workmanship by virtue of the fact that it is, or contains, ethanol rather than nonethanol-blended gasoline.

(b) DEFINITIONS.—

(1) CONVENTIONAL GASOLINE.—The term ‘conventional gasoline’ means a motor vehicle fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

(2) DEFINITION OF BIODIESEL.—The term ‘biomass-based diesel fuel’ has the meaning given the term ‘biomass-based diesel’ in section 211(b) of the Clean Air Act, as amended by this Act.

(3) DEFINITION OF REFURBISHED.—The term ‘refurbished’ means an automobile that is leased for at least 2 years and is returned to the manufacturer in a condition comparable to the original condition of the vehicle and that has been repaired and reconditioned under a program that is designed to ensure that the vehicle is returned to service in a condition comparable to the original condition of the vehicle.

(4) REGULATIONS.—The Secretary shall establish regulations to implement this section.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to the Secretary under subchapter V of this title such sums as may be necessary to carry out the provisions of this section.

SEC. 820B. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ‘municipal solid waste’ means the solid waste generated by a municipality or a public agency under this section.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide grants to States for the demonstration of projects that use municipal solid waste to generate electricity or to produce renewable fuels.

(c) DEFINITIONS.—

(1) CONVENTIONAL GASOLINE.—The term ‘conventional gasoline’ means a motor vehicle fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

(2) MINIMUM LEVEL OF FUEL.—For purposes of this section, the minimum level of fuel that a manufacturer may use in a research engine is 5 percent.

(d) IMPLEMENTATION.—The Secretary shall implement this section by regulations prescribed by the Secretary.

(c) INFRASTRUCTURE DEVELOPMENT.—The Secretary shall require the recipient of a grant made under this section to provide certain information relating to the program and to make certain reports to the Secretary.

SEC. 821. FUEL EFFICIENCY OF THE FEDERAL FLEET OF AUTOMOBILES.

Sec. 3207 of the United States Code, amended to read as follows:

S32917. Standards for executive agency automobiles

(a) 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. If not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

(b) FUTURE 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.

(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 prescribes for the implementation of this section.

(d) DEFINITIONS.—In this section—

(1) the term ‘automobile’ does not include an automobile designed for combat-related missions, law enforcement work, or emergency rescue work.

(e) The term ‘executive agency’ has the meaning given that term in title 5.

 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.

(a) 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 fuel savings resulting from long duration idling of main drive engines in heavy-duty vehicles.

(b) REGULATIONS.—Upon completion of the study under subsection (a), the Secretary may issue regulations requiring the installation of idling reduction systems on all newly manufactured heavy-duty vehicles.

(c) DEFINITIONS.—As used in this section:

(1) The term ‘heavy-duty vehicle’ means a vehicle that has a gross vehicle weight rating
greater than 8,500 pounds and is powered by a diesel engine.

"(2) The term ‘long duration idling system’ means a device or system of devices used to reduce long duration idling by a diesel engine in a vehicle.

"(3) The term ‘long duration idling’ means the operation of a main drive engine of a heavy-duty vehicle for a period of more than 15 consecutive minutes if the main drive engine is not engaged in gear, except that such term does not include idling as a result of traffic congestion or other impediments to the movement of a heavy-duty vehicle.

"(4) The term ‘vehicle’ has the meaning given in such term in section 4 of title 1, United States Code.’’

SEC. 823. 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 geographically dispersed projects 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 by State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall report 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.—There is authorized to be appropriated 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 timelines for developing technologies to enable at least 100,000 hydrogen-fueled 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 a review of the development of hydrogen as a fuel for use in fueling stations in the United States by 2010 and at least 2.5 billion hydrogen equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of energy budget.

Subtitle C—Federal Reformed Fuels

SEC. 8302. SHORT TITLE.

This subtitle may be cited as the ‘‘Federal Reformed Fuels Act of 2003’’.
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.

(b) Purposes.—The purposes of this section are:

(1) to eliminate use of MTBE as a fuel oxygenate;

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting “fuel or fuel additive or” after “fuel”; and

(B) by striking “air pollution which” and inserting “air pollution, or water pollution, that”; and

(2) in paragraph (4)(B), by inserting “or water quality protection;” after “emission control;” and

(3) by adding at the end the following:

“(5) PROHIBITION ON USE OF MTBE.—

“(A) In General.—Subject to subparagraph (E), no later than 4 years after the date of enactment of this Act, the use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the United States to assist the production of reformulated gasoline shall be prohibited.

“(B) REGULATIONS.—The Administrator shall make regulations to effect the prohibition in subparagraph (A).

“(C) STATES THAT AUTHORIZE USE.—A State may seek to be included in subparagraph (A) by submitting a request to the Administrator for the States to be described in such subparagraph. The Administrator, after consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the production of such other fuel additives that, in the opinion of the Administrator, may reasonably be anticipated to the production of iso-octane and alkylates.

“(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

“(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator, or the Secretary of Energy, in consultation with the Administrator, may allow trade quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

“(F) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

“(A) In General.—

(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, shall make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane and alkylates.

(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane and alkylates is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants specified by this provision.

(iii) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, or the Secretary of Energy, shall make grants to merchant producers of methyl tertiary butyl ether that are located in the United States and are engaged in the production of gasoline or diesel fuel to the extent that such fuel additives may reasonably be anticipated to endanger public health or the environment.

(iv) EXCEPTIONS.—

(A) have been registered and have been tested or are being tested in accordance with the requirements of the Clean Air Act; and

(B) will contribute to replacing gasoline volumes lost as a result of paragraph (5).

(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility that is capable of receiving 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—

(I) beginning on the date of enactment of this paragraph; and

(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (A).

(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 2007.

(e) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (a)(1) shall be effective on the day before the date of enactment of this Act regarding the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

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 paragraph (2)—

(i) in the definition of subparagraph (A), by striking “(including the oxygen content requirement contained in subparagraph (B)’’)’’; and

(ii) by redesignating subparagraphs (B) and (D) as subparagraphs (B) and (C), respectively; and

(B) by adding at the end the following:

“(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 2007.

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (a)(1) shall be effective on the day before the date of enactment of this Act regarding the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 835. OXYGEN CONTENT REDUCTIONS.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the definition of subparagraph (A), by striking “(including the oxygen content requirement contained in subparagraph (B)’’)’’;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(B) by adding at the end the following:

“(C) ELIGIBLE PRODUCTION FACILITIES.—

(i) the Administrator or the Secretary of Energy, in consultation with the Administrator, may make grants to eligible production facilities described in subparagraph (B) to the extent that such fuel additives may reasonably be anticipated to the production of iso-octane and alkylates;

(ii) the Secretary of Energy, or the Administrator, may allow trade quantities of ethyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Secretary of Energy or the Administrator determines to be appropriate.

(g) APPLICATION OF STANDARDS.—

Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking “Within 1 year after the enactment of the Clean Air Act Amendments of 1990,” and inserting the following:

“(A) In General.—Not later than 15, 1991, and

(B) by adding at the end the following:

“(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—

(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 180 days after the date of enactment of this Act, the Administrator shall promulgate regulations on the emission of toxic air pollutants from reformulated gasoline or diesel fuel, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(III) REGULATIONS CONCERNING ORGANIC VOLATILE EMISSIONS FROM REFORMULATED GASOLINE OR DIESEL FUEL.—

(A) The Administrator, in consultation with the Administrator, shall promulgate regulations on the emission of organic volatile emissions from reformulated gasoline or diesel fuel, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(B) The Administrator shall provide for the granting and use of credits between, or credits to any region that is in compliance with the organic volatile regulations promulgated by the Administrator prior to enactment of this Act.

This section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated under part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Region 1 and 2 under section 80.41 of that title by eliminating the more stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated under part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Region 1 and 2 under section 80.41 of that title by eliminating the more stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.
(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) or (C).
(B) APPROVAL.—If the determination in (A) is not made within thirty days of enactment of this paragraph, the petition shall be deemed approved.
""

SEC. 383. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2),
(A) by striking "may also" and inserting "shall, on a regular basis,"; and
(B) by striking subparagraph (A) and inserting the following:
""(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and
(2) by adding at the end the following:
""(B) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.
(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—
(I) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—
(II) ethyl tertiary butyl ether;
(III) tertiary amyl methyl ether;
(IV) diisopropyl ether;
(V) tert-butyl alcohol;
(6) other ethers and heavy alcohols, as determined by the Administrator;
(7) iso-octane; and
(8) alkylates; and
(III) conduct a study on the effects on public health, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements other than the requirements defined in section 110 of the Higher Education Act of 1965 (20 U.S.C. 1001))."

SEC. 384. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 820(a)) is amended by inserting after subsection (a) the following:

""(p) ANALYSIS OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—
(A) ANTI-BACKSLIDING 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 pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Federal Reformed Fuels Act of 2003.
(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.
""

""(q) AUTHORITY OF STATE TO CONTROL FUels AND FUEL ADDITIVES FOR REASONS OF NECESsary.—
(1) IN GENERAL.—(A) A State:
(B) in paragraph (2),
(2) by adding after the following:
""(ii) to reduce costs to consumers and producers;
(3) by adding at the end the following:
""(iii) to provide increased liquidity to the gasoline market; and
(iv) extending the period of applicability to the national standard necessary, to promote cleaner burning motor vehicle fuel.
""(r) 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 for legislative 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.
""

SEC. 385. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—
(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 fuels, including—
(A) the 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 assess—
(A) the effect of the variety of 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) related 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 refineries;
(ii) the fuel distribution system; and
(iii) industry innovation and productivity;
(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities; and
(E) the feasibility of developing national or regional motor vehicle fuel slates 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) extend fuel quality, consistency, and supply reliability;
(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 for legislative 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.
""(C) by striking 'A State'; and
(D) by adding the following:
""(i) consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—
SEC. 901. INCREASED FUNDING FOR LEAP, WEATHERIZATION ASSISTANCE, AND STATE ENERGY GRANTS.

(a) LEAP.—(1) Section 2602(a) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(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 section $3,400,000,000 each for fiscal years 2003 through 2005.”

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(a)) is amended by striking “not more than $300,000” and inserting “not more than $750,000.”

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking “for fiscal years 1999 through 2003” and inserting “for fiscal years 2004 through 2005.”

(c) S TATE ENERGY CONSERVATION GRANTS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6232) is amended by adding at the end the following:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the State submitted under subsection (b). The reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals.”

(d) STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended to read as follows:

“SEC. 364. Each State energy conservation plan with respect to which assistance is made available on or after the date of enactment of the Energy Policy Act of 2003 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.”

(e) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary,” and inserting “$325,000,000 for fiscal year 2003 and $500,000,000 for fiscal year 2004.”

SEC. 902. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6232) is amended by adding at the end the following:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the State submitted under subsection (b). The reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals.”

(b) STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended to read as follows:

“SEC. 364. Each State energy conservation plan with respect to which assistance is made available on or after the date of enactment of the Energy Policy Act of 2003 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 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. 6325(f)) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary,” and inserting “$325,000,000 for fiscal year 2003 and $500,000,000 for fiscal year 2004.”

SEC. 903. ENERGY EFFICIENT SCHOOLS.

(a) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Schools Program (in this section referred to as the “Program”).

(b) GRANTS.—The Secretary of Energy may make grants to a State energy office—

(1) to assist the State in the State to improve the energy efficiency of school buildings; (2) to administer the Program; and (3) to promote participation in the Program.

(c) GRANTS TO DISTRICTS.—The Secretary shall condition grants under subsection (b)(1) on the State energy office using the grants to assist school districts that have demonstrated—

(1) a need for the grants to build additional school buildings to meet increasing elementary or secondary enrollments or to renovate existing school buildings; and

(2) a commitment to use the grant funds to develop high performance school buildings in accordance with the State energy office, in consultation with the State educational agency, has determined is feasible and appropriate to achieve the purposes for which the grant is made.

(d) GRANTS FOR ADMINISTRATION.—Grants under subsection (b)(2) shall be used to—

(1) evaluate compliance by school districts with requirements of this section;

(2) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing school buildings; and

(3) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings; or

(e) COLLECT AND REPORT INFORMATION.—Grants under subsection (b)(1) shall be used to—

(1) collect and monitor data and information pertaining to the high performance school building projects;

(f) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for—

(1) promoting and marketing activities, including facilitating private and public financing, promoting the use of energy savings performance contracts, working with school administrations, students, and communities, and coordinating public benefit programs.

(g) SUPPLEMENTING GRANT FUNDS.—The State energy office shall encourage qualifying school districts to supplement funds awarded pursuant to this section with funds from other sources in the implementation of the plans under this section.

(h) ALLOCATIONS.—Except as provided in subsection (f), funds appropriated to carry out this section shall be allocated as follows:

(1) 70 percent shall be used to make grants under subsection (b)(1);

(2) 15 percent shall be used to make grants under subsection (b)(2);

(i) OTHER FUNDS.—The Secretary of Energy may retain an amount, not to exceed $300,000 per school year, for administration of the Program.

(j) DEFINITIONS.—In this section:

(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term ‘‘high performance school building’’ means a school building that, in its design, construction, renovation, and operation, meets all of the following:

(A) maximizes use of renewable energy and energy-efficient technologies and systems; (B) is cost-effective on a life-cycle basis; (C) achieves either—

(i) the applicable Energy Star building energy performance ratings; or

(ii) energy consumption levels at least 30 percent below those of the most recent version of ASHRAE Standard 90.1; (D) is affordable, environmentally preferable, and durable materials; (E) enhances indoor environmental quality; (F) protects and conserves water; and (G) optimizes site potential.

(2) RENEWABLE ENERGY.—The term ‘‘renewable energy’’ means energy produced by solar, wind, geothermal, ocean, tidal, wave, and hydropower.

(3) SCHOOL.—The term ‘‘school’’ means—

(A) an ‘‘elementary school’’ as that term is defined in section 14101(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6314(d)); or

(B) a ‘‘secondary school’’ as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6315(25)); or

(C) an elementary or secondary Indian school funded by the Bureau of Indian Affairs.

(4) STATE EDUCATIONAL AGENCY.—The term ‘‘State educational agency’’ has the same meaning as such term in section 1410(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801(b)).

(5) STATE ENERGY OFFICE.—The term ‘‘State energy office’’ means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6232), or, if no such agency exists, a State agency designated by the Governor of the State.

SEC. 904. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribes or to Indian households to improve energy efficiency in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The grants authorized by this section shall be used to—

(1) develop alternative renewable and distributed energy supplies; (2) energy efficiency projects and energy conservation programs; (3) studies and other activities that improve energy efficiency in low income rural and urban communities; (4) training and development assistance for increasing the energy efficiency of buildings and facilities; and (5) technical and financial assistance to local government, and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—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 created under section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 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.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, any grant made to an ‘‘Indian tribe’’ shall be treated as an energy efficiency program as defined in section 2116 of the Energy Policy and Conservation Act of 1978 (42 U.S.C. 6216) and shall be subject to the provisions of section 505 of that Act (42 U.S.C. 6285).
(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 for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6222).

(5) STATE PROGRAM.—The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b)(1) A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) satisfies the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNTS ALLOCATED.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to each eligible State an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, not less than 25% of the amount allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum 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 determined by a State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office;

(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 the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest match in 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.

Subtitle B—Federal Energy Efficiency

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:

"(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) in the subsection heading, by inserting "The President and" before "Congress";

(2) by inserting "President and" before "Congress";

(c) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8253(d)) is further amended by adding at the end the following:

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the
Secretary of Energy shall establish, by rule, 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 those of 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 those of the requirements of the most recent version of the International Energy Conservation Code, whichever results in the greater increase in energy efficiency; and

(iii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.

(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall publish revised standards establishing the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the most recent research findings, and whether the revised standards established by this paragraph should be modified to reflect improvements in construction techniques, materials, and building products.

(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 108 of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

(i) a list of the new Federal buildings of the Federal agency; and

(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards under the Energy Star Program established under this paragraph, including a monitoring and commissioning report that is in compliance with the measurement and verification protocols of the Department of Energy.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph, including for development of the revised standards established under this paragraph.

(b) ENERGY LABELING PROGRAM.—Section 303(a)(12) of the National Energy Conservation and Production Act (42 U.S.C. 6834(a)) is further amended by adding at the end the following:

‘‘(m) ENERGY OR WATER CONSERVATION MEASURES.—The Secretary of Energy, in consultation with the National 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) REQUIREMENT.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

‘‘SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(1) ENERGY STAR PRODUCT.—The term ‘Energy Star product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(2) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

(1) REQUIREMENT.—To meet the requirements of an executive agency of 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—

(A) an Energy Star product or FEMP designated product is not cost effective over the life cycle of the product; or

(B) no Energy Star product or FEMP designated product is reasonably available that meets the requirements of the executive agency.

(c) 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 the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

(d) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star and FEMP designated products shall be identified and prominently displayed in any inventory or listing of products by the General Services Administration and any other Federal agency.

(e) ENERGY LABELS.—The Secretary shall establish and maintain an energy consumption labeling program that identifies energy efficient products (as defined in this section) for rating Energy Star products and for rating FEMP designated products.

(f) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (b) shall take effect on the date which is 180 days after the date of enactment of this Act.

(FEDERAL ENERGY BANK.

SEC. 918. FEDERAL ENERGY BANK.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

‘‘SEC. 553. FEDERAL ENERGY BANK.

(1) DEFINITIONS.—In this section:

(A) ‘Bank’ means the Federal Energy Bank established by subsection (b).

(B) ‘Energy or water efficiency project’ means the term ‘energy or water efficiency project’ as defined in subsection (a).

(C) ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(D) ‘Energy savings’ means the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

(E) ‘Energy savings performance contract’ means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance, or repair of energy conservation measures or series of measures at one or more locations.

(F) ‘Energy Star program’ means an energy conservation measure, as defined in section 553(1)(D)(ii) (42 U.S.C. 8259(1)(D)(ii)); or

(G) ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(H) ‘(C) the increased efficient use of existing water sources.’.

(i) ‘Energy or water conservation measure’ means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance, or repair of energy or water conservation measure or series of measures at one or more locations.

‘‘SEC. 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 conduct 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, and shall implement identified administrative and regulatory changes to increase the program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 915. FEDERAL ENERGY BANK.

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

‘‘SEC. 553. FEDERAL ENERGY BANK.

(1) DEFINITIONS.—In this section:

(A) ‘Bank’ means the Federal Energy Bank established by subsection (b).

(B) ‘Energy or water efficiency project’ means the term ‘energy or water efficiency project’ as defined in subsection (a).

(C) ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

(D) ‘Energy savings’ means the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

(E) ‘Energy or water conservation measure’ means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance, or repair of energy or water conservation measure or series of measures at one or more locations.

‘‘FEDERAL AGENCY.—The term ‘Federal agency’ means—

(A) an Executive agency (as defined in section 305 of title 5, United States Code);

(B) the United States Postal Service;

(C) Congress and any other entity in the legislative branch; and

(D) each Federal court and any other entity in the judicial branch.

‘‘ESTABLISHMENT OF BANK.—
(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ‘Federal Energy Bank’, consisting of—

(a) such amounts as are deposited in the Bank under paragraph (2);

(b) such amounts as are repaid to the Bank under paragraph (3); and

(c) any interest earned on investment of amounts in the Bank under paragraph (3).

(2) DEPOSITS IN BANK.—

(A) IN GENERAL.—The Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2002; and in each fiscal year thereafter.

(B) MAXIMUM AMOUNT IN BANK.—Deposits under subparagraph (A) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(C) LOANS FROM THE BANK.—

(A) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Federal agency such amounts as are appropriated to carry out the loan program under paragraph (2).

(B) LIMITATION.

(i) IN GENERAL.—A Federal agency shall not make a loan to any Federal agency that submits an application to the Secretary for a loan from the Bank to carry out the loan program under subparagraph (A) which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

(ii) LIMITATION.

(A) IN GENERAL.—A Federal agency may use for the purposes of cofunding of an energy savings performance contract under title VIII; or

(B) IN GENERAL.—Subject to clauses (ii) through (iv), a Federal agency may repay to the Bank the principal amount of a loan plus interest at an interest rate not to exceed 1.25 percent per annum.

(C) the estimated cost and energy savings requirements for Federal buildings established under section 543(a) and in each fiscal year thereafter.

(D) REPAYMENTS.

(i) IN GENERAL.—A Federal agency may contract with nongovernmental entities to save energy and taxpayer dollars in the workplace.

(ii) LIMITATION.

(A) IN GENERAL.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank, to submit an audit, to be conducted with the amounts from the Bank to assess the performance of the project.

(B) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

(A) the total receipts from the Bank;

(B) the total amount of loans from the Bank to each Federal agency; and

(C) the estimated cost and energy savings results from projects funded with loans from the Bank.

(2) LOAN PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—In accordance with subsection (a)(1), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program for the making of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

(ii) LIMITATION.

(A) IN GENERAL.—The Secretary may begin—

(i) accepting applications for loans from the Bank in fiscal year 2002; and

(ii) making loans from the Bank in fiscal year 2003.

(B) ENERGY SAVINGS PERFORMANCE CONTRACT FUNDING.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

(C) PURPOSES OF LOAN.—

(i) IN GENERAL.—A loan from the Bank may be used to pay—

(A) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);

(B) the costs of an energy metering plan and metering equipment installed pursuant to section 542(e) for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or

(C) at the time of contracting, the costs of cofunding 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 subparagraph (A) or (B) of this paragraph in accordance with applicable law (including Executive Orders).

(E) REPORTS AND AUDITS.—

(A) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $10,000,000 and annually thereafter, a Federal agency shall submit to the Secretary a report that—

(i) states whether the project meets or fails to meet the energy savings projections for the project; and

(ii) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

(B) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank, to submit an audit, to be conducted with the amounts from the Bank to assess the performance of the project.

(C) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

(A) the total receipts from the Bank;

(B) the total amount of loans from the Bank to each Federal agency; and

(C) the estimated cost and energy savings results from projects funded with loans from the Bank.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 919. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(A) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end—

SEC. 544. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(A) IN GENERAL.—The Architect of the Capitol shall—

(1) develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the ‘plan’) for all facilities administered by the Architect of the Capitol (referred to in this section as ‘Congressional buildings’) to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

(2) submit the plan to Congress, not later than 180 days after the date of enactment of this section.

(B) PLAN REQUIREMENTS.—The plan shall include—

(i) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

(ii) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

(iii) a strategy for installation of life cycle cost effective energy and water conservation measures;

(iv) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

(v) information packages and ‘how-to’ guides for each Member and employing authority of Congress that detail in-depth and effective methods to save energy and taxpayer dollars in the workplace.

(C) CONTRACTING AUTHORITY.—The Architect of the Capitol may—

(i) contract with nongovernmental entities and use private sector capital to finance energy conservation projects and meet energy performance requirements; and

(ii) use innovative contracting methods that will attract private sector funding for the installation of energy efficiency and renewable energy technology, such as energy savings performance contracts described in title VIII.

(D) CAPITOL VISITOR CENTER.—The Architect of the Capitol shall—

(i) ensure that state-of-the-art energy efficiency and renewable energy technologies
are used in the construction and design of the Visitor Center; and

"(2) shall include in the Visitor Center an exhibit on the energy efficiency and renewable energy means of federal government buildings.

(e) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

"(1) energy expenditures and savings estimates for each facility;

"(2) energy management and conservation projects; and

"(3) future priorities to ensure compliance with this Act.

(b) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

SEC. 920. INCORPORATED INTO FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(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 has a role in regulating or procuring cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term ‘‘concrete or cement project’’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term ‘‘recovered material’’ means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or part, using Federal funds.

(5) IMPLEMENTATION OF REQUIREMENTS.—In general. Not later than 1 year after the date of enactment of this Act, the Administrator and the agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(6) PRIORITIZATION.—In carrying out paragraph (5), an agency head shall give priority to achieving greater reuse of recovered material in cement or concrete projects to the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in concrete or concrete projects.

(b) 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 requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify specific areas of procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C) 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 or have 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; and

(iii) identify any potential environmental or economic effects that may result from greater substitution 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 Congress a report that evaluates the success of the voluntary agreements, with independent evaluations of a sample of the energy savings estimates provided by participating firms.

SEC. 922. AUTHORITY TO SET STANDARDS FOR FEDERAL APPLIANCES.

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 section 321(2), by inserting ‘‘AND COMMERCIAL’’ after ‘‘CONSUMER’’.

(2) In section 321(2), by inserting ‘‘or commercial’’ after ‘‘consumer’’.

(b) In paragraphs (4), (5), and (15) of section 321, by striking ‘‘consumer’’ each place it appears and inserting ‘‘covered’’.

(4) In section 322(a), by inserting ‘‘or commercial’’ after ‘‘consumer’’ the first place it appears in the material preceding paragraph (1).

In section 322(b), by inserting ‘‘or commercial’’ after ‘‘consumer’’ each place it appears.

(6) In section 322(b)(3)(B), by inserting ‘‘or 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 323(b)(2)(A)—

(A) by striking ‘‘term’’ and inserting ‘‘terms’’; and

(8) 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 ‘‘batteries’’ means a device that charges batteries for consumer products.

"(33) The term ‘‘commercial refrigerator, freezer and refrigerator-freezer’’ means a refrigerator, freezer or refrigerator-freezer that—

(A) is not a consumer product regulated under this Act; and

(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

"(34) The term ‘‘commercial transformer’’ means an external power supply circuit that is used to convert household electric current into either higher current or lower-voltage AC current to operate a consumer appliance.

"(35) The term ‘‘illuminated exit sign’’ means a sign that is designed to be permanently fixed in place to identify an exit; and

(8) CONSISTENCY.—In this section, the term ‘‘IEC current’’ means IEC current or lower-voltage AC current to operate a consumer appliance.

"(9) The term ‘‘low-voltage dry-type transformer’’ means a transformer that—

(A) has an input voltage of 600 volts or less; and

(B) is air-cooled;

(C) does not use oil as a coolant; and

(D) is rated for operation at a frequency of 60 Hertz.

"(10) The term ‘‘low-voltage dry-type transformer’’ does not include—

(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap; and

(ii) transformers that are designed to be used in a special purpose application, such as transformers commonly known as drive transformers, regulator transformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilated transformers, tool transformers, welding transformers, grounding transformers, or testing transformers; or
magnetic induction from one coil to another to consisting of two or more coils of insulated wire

TEST PROCEDURES.

This paragraph shall take effect on the same date as the standards set pursuant to sections 325 (v) and (w) of the Energy Policy and Conservation Act.

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:

SEC. 926. ENERGY STAR PROGRAM.

SEC. 924. ADDITIONAL TEST PROCEDURES.

(a) EXIT SIGNS.

The provisions of section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) are amended by adding at the end the following:

SEC. 924A. There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient building and lighting technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

(b) 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:

(c) REVISED STANDARDS.

Not later than 60 days after the date of enactment of this subsection, the Secretary shall amend the standards established under paragraph (1).

SEC. 927. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

SEC. 928. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

SEC. 925. ENERGY LABELING.

The Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.

(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (b) of this subsection.

(b) RULEMAKING FOR STANDBY MODE.—(A) Any rulemaking instituted under this subsection with respect to covered products under this section which restricts standby mode power consumption shall be subject to the subject to the procedures set forth in section 325 and the criteria set forth in paragraph (2) of this subsection.

(2) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.
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 measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or 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.

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 8916(c) note) is amended—

(1) by inserting before the semicolon at the end of the following: “’’; and

(2) by striking “, including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families’’.

SEC. 932. INCREASE OF CBGS, PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 3505(a)(8)) is amended—

(1) by inserting ‘‘or efficiency’’ after ‘‘energy conservation’’;

(2) by striking ‘‘, and except that’’ and inserting ‘‘;’’; and

(3) by inserting before the period at the end of the following: ‘‘, and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services pertaining to conservation, energy efficiency, or efficiency and others services that are intended to conserve energy’’. If so designated.

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. 1705(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting ‘‘or paragraph (10)’’; and

(2) by striking ‘‘20 percent’’ and inserting ‘‘30 percent’’.

(b) Multifamily Housing Mortgage Insurance Program.—Section 221(d)(3)(A) of the National Housing Act (12 U.S.C. 1715l(c)(3)(A)) is amended—

(1) by inserting ‘‘or paragraph (10)’’; and

(2) by striking ‘‘20 percent and inserting ‘‘30 percent’’.

(c) Cooperative Housing Mortgage Insurance Program.—Section 221(d)(3)(B) of the National Housing Act (12 U.S.C. 1715l(c)(3)(B)) is amended—

(1) by inserting ‘‘or paragraph (10)’’; and

(2) by striking ‘‘30 percent’’.

SEC. 934. SUPPORT FOR CERTAIN ENERGY POLICIES.

Consistent with the focus of the Bank’s Charter on environmental infrastructure projects, the Board should encourage the United States to use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that promote environmental protection and reduce environmental pollutants or contaminants.

SEC. 935. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8231(b)(3)) is amended—

(1) by striking ‘‘financed with loans’’ and inserting ‘‘financed through grants’’; and

(2) by inserting after ‘‘1995’’ the following:

‘‘(1) which are eligible multifamily housing projects (as such term is defined in section 502 of the Multifamily Housing Act of 1973), the Secretary of Housing and Urban Development, by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.’’

SEC. 936. NORTH AMERICAN DEVELOPMENT BANK.

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 2901–2903) is amended by adding at the end the following:

SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.

Consistent with the focus of the Bank’s Charter on environmental infrastructure projects, the Board should encourage the United States to use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that promote environmental protection and reduce environmental pollutants or contaminants.

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(2)) is amended by adding at the end the following:

SEC. 938. STUDY OF LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.

Section 221(k) of the National Housing Act (12 U.S.C. 1715k(i)) is amended by striking ‘‘20 per centum’’ and inserting ‘‘30 per centum’’.
SEC. 938. ENERGY-EFFICIENT APPLIANCES.

(a) In General.—The Secretary of Housing and Urban Development shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by the Energy Policy Act of 1992) and all that follows through the Energy Policy Act of 1992 and inserting a semi-colon; and

(ii) in subparagraph (A), by striking "".

(iii) in subparagraph (B), by striking the pe-

sec. 939. ENERGY EFFICIENCY STANDARDS.

Section 939 of title 25, United States Code, is amended—

(1) in subsection (a)—

(i) by inserting "".

(ii) by inserting "".

(iii) by inserting "".

(iv) by inserting "".

(b) in paragraph (1), by striking "".

(c) in paragraph (2), by striking "".

(d) in paragraph (3), by striking "".

(e) in paragraph (4), by striking "".

SEC. 940. ENERGY STRATEGY FOR RURAL AND REMOTE COMMUNITIES.

(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, efficiency enhancement, and alternative energy sources to less costly utility alternatives, and shall take steps to ensure that the Secretary shall not be precluded from taking action necessary to meet building and safety codes and adjustments for occupancy rates increased by rehabilitation.

(iii) by inserting "".

(iv) by inserting "".

(b) in paragraph (2), by striking "".

(c) in paragraph (3), by striking "".

(d) in paragraph (4), by striking "".

SEC. 941. SHORT TITLE.

This subtitle may be cited as the "".
unreasonable administrative burden on the rural and remote community.

SEC. 946. ELIGIBLE ACTIVITIES. 
(a) ACTIVITIES INCLUDED.—Eligible activities assisted under this subtitle may include only those that achieve the following:

(i) providing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to—

(1) a unit of local government of a state or territory; or

(2) an Indian tribe or Tribal College or University as defined in section 316 of the Higher Education Act (20 U.S.C. 1095b); (f) GRANTS.—The Secretary shall make grants based on a determination of cost-efficiency and most effective use of the funds to achieve the stated purposes of this section.

(1) PRELIMINARY.—In making grants under this section, the Secretary shall give a preference to rural and remote communities.

(2) DEFINITION.—For purposes of this section, the term "rural and remote community" means any geographic area represented by a unit of general local government, if the Secretary determines that the area meets the requirements of subsection (d) to carry out eligible activities described in subsection (f) for which the grant will be used; and

(c) GRANT AUTHORITY.—In general.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups or eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(d) ELIGIBILITY REQUIREMENTS. 
(1) STATEMENT OF RECOVERY OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—

(A) shall—

(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American group or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under subsection (a)(4) and submit comments to the eligible unit; and

(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

(i) a final statement of rural recovery development objectives; and

(ii) a description of the eligible activities described in subsection (f) for which a grant received under chapter 4 of title 31, United States Code, prior to the repeal of such chapter.

(e) RURAL RECOVERY AREA.—The term "rural recovery area" means any geographic area represented by a unit of general local government or a Native American group—

(A) the borders of which are not adjacent to a metropolitan area; and

(B) in which—

(i) the population outmigration level equals or exceeds the average for the respective recent 3-year period, as determined by the Secretary; or

(ii) the per capita income is less than that of the national nonmetropolitan average.

(f) CONDITIONS.—The term "conditions" means any geographic area represented by a unit of general local government or a Native American group—

(A) the borders of which are not adjacent to a metropolitan area; and

(B) in which—

(i) the population outmigration level equals or exceeds the average for the respective recent 3-year period, as determined by the Secretary; or

(ii) the per capita income is less than that of the national nonmetropolitan average.

(g) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term "eligible unit of general local government" means any unit of general local government, Native American group or eligible Indian tribe that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(h) GRANT AUTHORITY.—The term "grant" means any grant under this section to meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(i) ELIGIBLE ACTIVITIES.—The term "eligible activity" means any activity described in subsection (d) to carry out eligible activities described in subsection (f).
groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).
(2) Public Notice and Comment.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe may receive a grant under this section if—
(A) a copy of the final statement submitted under paragraph (1)(B);
(B) notice of the amount made available under this section and the eligible activities to be undertaken with that amount;
(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—
(1) the income realized after the initial disbursement of amounts to the grantee under this section; and
(2) the
(A) grantee agrees to utilize the income for one or more eligible activities or
(B) amount of the income is determined by the Secretary of Housing and Urban Development to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.
(2) AMOUNT.
(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2009.
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.
(a) FINDINGS.—The Congress makes the following findings:
(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change. The Intergovernmental Panel on Climate Change (IPCC) has concluded that there is new and stronger evidence that most of the warming observed over the past 50 years is attributable to human activities and that the Earth’s average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.
(2) The National Academy of Sciences confirmed the findings of the IPCC, stating that the IPCC’s conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue and that “there is substantial agreement that the observed warming is real and particularly strong within the past twenty years.” The National Academy of Sciences also noted that “because greenhouse gases have global warming potential and because climate change is a global problem, international action is necessary.”
(3) The United States has been party to the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.” Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, and to ensure that economic development is not threatened and to enable economic development to proceed in a sustainable manner.
(4) The UNFCCC further stated that “development, country Parties should take the lead in combating climate change and the adverse effects thereof”, as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that “steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas.”
(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by—
(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;
(2) creating flexible and international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions;
(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States participation in a future binding climate change treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.
SEC. 1011. SHORT TITLE.

This subtitle may be cited as the "Climate Change Strategy and Technology Innovation Act of 2003."

SEC. 1012. DEFINITIONS.

In this subtitle:

(1) CLIMATE-FRIENDLY TECHNOLOGY.—The term "climate-friendly technology" means any energy supply or end-use technology that, over the life cycle of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—

(A) results in reduced emissions of greenhouse gases;

(B) may substantially lower emissions of other pollutants; and

(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(3) DEPARTMENT OFFICE.—The term "Department Office" means the Office of Climate Change Technology of the Department established by section 1015(a).

(4) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" in section 551 of title 5, United States Code.

(5) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(6) INTERAGENCY TASK FORCE.—The term "Interagency Task Force" means the Interagency Task Force established under section 1014(e).

(7) KEY ELEMENT.—The term "key element", with respect to the Strategy, means—

(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States and in foreign countries; and

(ii) in carrying out such research and development, a national commitment to provide a high degree of interagency cooperation and to break through technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(C) climate adaptation research that focuses on actions necessary to adapt to climate change—

(i) that may have already occurred; or

(ii) that may occur under future climate change scenarios;

(D) appropriate science research that—

(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this subtitle; and

(ii) incorporates the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.

(8) LONG-TERM GOAL OF THE STRATEGY.—The term "long-term goal of the Strategy" means the long-term goal in section 1013(a)(1).

(9) MITIGATION.—The term "mitigation", with respect to energy, 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) QUALIFIED INDIVIDUAL.—(A) IN GENERAL.—The term "qualified individual" 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.

(B) FIELDS OF 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 technology; (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 would prevent 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 by the United States and other nations; (2) recognize that accomplishing the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations will 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) be developed on the basis 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 are not limited to, a federal cap and trade system, emissions trading, offsets earned through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States; (6) minimize any adverse short-term and long-term 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 national goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States; (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 for achieving the long-term goal of the Strategy, including evaluation of—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives; (B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; (C) participation in other international institutions, or in the support of international actions that are essential to conduct other United States and in foreign countries; and (D) the long-term goal of the Strategy including—

(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 emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and (ii) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States; (ii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; (v) the economic, national security, and social impacts on the United States; and (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; and (vi) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (vii) the economic, national security, and social impacts on the United States; and (viii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (ix) the economic, national security, and social impacts on the United States; and (x) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (xi) risk and decision analysis; (xii) regulatory and market-based mechanisms for addressing climate change; (xiii) strategic planning; and (xiv) the international implications of climate change strategies.

(b) National Climate Change Strategy—An emphasis 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 emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and (ii) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States; (ii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; and (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; and (vi) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (vii) the economic, national security, and social impacts on the United States; and (viii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (ix) the economic, national security, and social impacts on the United States; and (x) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (x) the economic, national security, and social impacts on the United States; and (xi) risk and decision analysis; (xii) regulatory and market-based mechanisms for addressing climate change; (xiii) strategic planning; and (xiv) the international implications of climate change strategies.

(c) National Climate Change Strategy—An emphasis 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 emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and (ii) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States; (ii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; and (iv) the social dimensions of climate change; and (v) the economic, national security, and social impacts on the United States; and (vi) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (vii) the economic, national security, and social impacts on the United States; and (viii) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (ix) the economic, national security, and social impacts on the United States; and (x) the development of technologies that have the potential for long-term stabilization of greenhouse gas emissions; (x) the economic, national security, and social impacts on the United States; and (xi) risk and decision analysis; (xii) regulatory and market-based mechanisms for addressing climate change; (xiii) strategic planning; and (xiv) the international implications of climate change strategies.

(C) National Infrastructure, Energy Distribution, and Transportation Systems

(15) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;
(14) be developed in a manner that provides for meaningful participation by, and consulta-
tion among, Federal, State, tribal, and local government agencies, nongovernmental organ-
izations, other public bodies, industry, the public, and other interested parties in ac-
cordance with subsections (b)(3)(C)(i) and (ii), and (e)(3)(B) of section 1014;
(15) how the United States should en-
gage State, tribal, and local governments in de-
veloping and carrying out a response to climate
change;
(16) promote, to the maximum extent prac-
ticable, public awareness, outreach, and infor-
mation-sharing to further the understanding of
the full range of climate change-related issues;
(17) ensure that an explanation of how the
measures recommended by the Strategy will en-
sure that they do not result in serious harm to
the economy of the United States;
(18) provide a detailed explanation of how
the measures recommended by the Strategy will
achieve its long-term goal;
(19) include any recommendations for legisla-
tive and administrative actions necessary to im-
plement the Strategy;
(20) serve as a framework for climate change
actions by all Federal agencies, including a de-
scription of the functional and programmatic
impacts to Federal programs or activities im-
plemented to carry out this Strategy, and any
mitigation actions taken by the United States
when the Strategy is consistent with the Nation-
al Climate Change Policy.
(b) DIRECTOR OF THE WHITE HOUSE OFFICE.
(1) IN GENERAL.—The Director of the White
House Office shall:
(A) serve as a framework for climate change
actions by all Federal agencies, including a de-
scription of the functional and programmatic
impacts to Federal programs or activities im-
plemented to carry out this Strategy, and any
mitigation actions taken by the United States
when the Strategy is consistent with the Nation-
al Climate Change Policy.
(b) DIRECTOR OF THE WHITE HOUSE OFFICE.
(1) IN GENERAL.—The Director of the White
House Office shall:
(A) serve as a framework for climate change
actions by all Federal agencies, including a de-
scription of the functional and programmatic
impacts to Federal programs or activities im-
plemented to carry out this Strategy, and any
mitigation actions taken by the United States
when the Strategy is consistent with the Nation-
al Climate Change Policy.
relevant programs are capable of producing progress on the long-term goal of the Strategy; and
(ii) the extent to which proposed or newly created energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on
(i) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and
(ii) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and utilizing the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—
(i) to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influencing the greenhouse gas management; and
(ii) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(iv) CONSULTATION.—The Members of the Interagency Task Force. To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.

(iii) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and interested parties in the development and updating of the Strategy.

(D) PUBLIC EDUCATION, AWARENESS, OUT-REACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(iii) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall provide the annual reports for submission by the President to Congress under section 1013(d).

(5) TASKS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of strong scientific, technical, and economic analyses, taking into consideration any uncertainties associated with the analyses.

(c) STAFF.—
(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including individuals appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.

(ii) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental 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 1208), for appointments of a limited term.

(d) AUTHORIZATION OF APPROPRIATIONS.—
(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available for 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 include—
(A) the Director of the White House Office, who shall serve as Chair;
(B) the Secretary of State;
(C) the Secretary of the Treasury;
(D) the Director of Management and Budget; and
(E) the heads of other Federal agencies as the President considers appropriate.

(f) STAFF.—In developing and updating the Strategy, and in carrying out annual reports under section 1013(d).

(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.

(2) WORKING GROUPS.—The Chair, in consultation with the members of the Interagency Task Force, may 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—
(i) continue to provide staff from the agencies 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 Tech-

(2) DUTIES.—The Department Office shall—
(A) manage an energy technology research and development program that directly supports the long-term goal of the Strategy;
(B) on a priority basis identify the high-risk, high-payoff research and development technologies that are necessary to achieving the long-term goal of the Strategy by—
(i) focusing on high-risk, bold, breakthrough technologies that—
(aa) mitigate the emissions of greenhouse gases;
(bb) remove and sequester greenhouse gases from emission sources; or
(cc) removing and sequestering greenhouse gases from the atmosphere; and
(ii) are not being addressed significantly by other Federal programs; and

(iii) would represent a substantial advance beyond technology available on the date of enactment of this subtitle;

(iv) fostering fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and 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;

(v) fostering 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;

(vi) making available, through monitoring, experimentation, analysis, and other means, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and

(vii) transferring research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;

(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 with other agencies represented on the Interagency Task Force to assist them in understanding and implementing climate change strategies that are cost-effective;

(E) identify the total contribution of all Department programs to the Strategy; and

(F) advise the Secretary on all aspects of climate change-related issues, including necessary changes in Department organization, management, and personnel allocation in the programs involved in climate change response-related activities.

(3) ANNUAL REPORTS.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—
(A) assesses progress toward meeting the goals of the energy technology research and development program described in this section;
(B) assesses the activities of the Department Office;
(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy; and
(D) make recommendations for actions by the Department Office to Federal agencies to address the components of technology development that are necessary to support the Strategy.

(b) DIRECTOR OF THE DEPARTMENT OFFICE.—(1) The Department Office shall be headed by a Director, who shall be a qualified individual appointed by the President, and who serves in that position at a rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) INTERGOVERNMENTAL PERSONNEL.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other departmental personal authorities, to obtain the services of qualified individuals from Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international governmental and private organizations.

(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall—

(1) initiated only after consultation with one or more other appropriate program offices of the Department that support research and development in the appropriate field;

(2) managed by the Department Office; and

(3) in the case of a project that reaches a sufficient level of development, with the concurrence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to support the project.

(e) COLLABORATION AND COST SHARING.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, demonstration, or transfer (energy, transportation, industrial, agricultural, forestry, or other climate change-related technology).

(f) WITH THE PRIVATE SECTOR.—

(A) IN GENERAL.—The Department Office shall—

(i) improve coordination with the private sector;

(ii) provide technical and scientific assistance to public and private entities that, together with the private sector, are necessary to support the Strategy; and

(iii) track United States and international progress toward the long-term goal of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The Department Office shall—

(i) design effective research and development programs; and

(ii) design effective research and development programs.

(C) ASSESSMENT.—In a manner consistent with the Strategy, the Department Office shall conduct assessments of deployment of climate-friendly technology.

(D) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Director of the Department Office shall place appropriate emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(E) 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, jointly with the Secretary of Commerce, make available such sums as may be necessary to carry out the duties of the Department Office under this subtitle until the date on which funds are made available under paragraphs (1) and (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, to carry out the duties of the Department Office, $9,000,000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(3) 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.

SEC. 1016. ADDITIONAL OFFICES AND ACTIVITIES.

(a) DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.—

(A) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—Section 204(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6632(b)(1)) is amended by inserting “global climate change;” after “to,”

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change,”

SEC. 1022. DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.

(a) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—The President shall designate the Secretary of Energy and shall provide the President, the Congress, and the public with a report on the national climate change policy, programs, and priorities established under this Act.

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the President shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.

Subtitle D—Miscellaneous Provisions

SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action and any reasonable alternatives to the action.

SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.

(a) METHODOLOGY.—Not later than 1 year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish jointly, and in a transparent and timely manner, a proposed methodology for preparing estimates of annual net greenhouse gas emissions from all federally owned, leased, or operated facilities and emission sources, including, but not limited to, greenhouse gas emissions from federal energy-related activities, and greenhouse gas emissions from federal buildings.

(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and in each year thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all federally owned,
TITLE XI—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) is 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:

(A) Administrator—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) 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 verifiable according to—

(1) regulations promulgated under section 1104(c)(1); and

(2) relevant standards and methods developed under this title.

(C) Database—The term "database" means the National Greenhouse Gas Database established under this title.

(D) Designated agency—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(E) Direct emissions—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(F) Facility—The term "facility" means—

(1) any buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(2) a fleet of 20 or more motor vehicles under the common control of an entity.

(G) Greenhouse gas—The term "greenhouse gas" means—

(1) carbon dioxide;

(2) methane;

(3) nitrous oxide;

(4) hydrofluorocarbons;

(5) perfluorocarbons;

(6) sulfur hexafluoride; and

(7) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations that are appropriate and practicable for coverage under this title).

(H) Indirect emissions—The term "indirect emissions" means greenhouse gas emissions that—

(1) are a result of the activities of an entity; but

(2) are emitted from a facility owned or controlled by another entity; and

(3) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(I) Registry—The term "registry" means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(J) Registry—The term "registry" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(K) Inclusions—The term "sequestration" includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. DEVELOPMENT 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 designate the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(i) are established as of the date of enactment of this Act under title XI;

(ii) provide for the collection of data relating to greenhouse gas emissions and effects; and

(iii) are necessary for the operation of the database;

(2) distribute additional responsibilities and activities identified under this title to Federal departments and agencies in accordance with the missions and expertise of those departments and agencies; and

(b) Minimum requirements.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, contain the following functions for the designated agencies:

(1) Department of Energy.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13838(b)).

(2) Department of Commerce.—The Secretary of Commerce shall be primarily responsible for—

(i) measurement standards for the monitoring, verification, and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles); and

(ii) to ensure the use of available resources of those departments and agencies; and

(3) comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles); and

(b) Minimum Requirements.—The memorandum of agreement shall not be subject to judicial review.

(b) National Greenhouse Gas Database Components.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) Comprehensive System.—In general.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) Minimum Requirements.—The designated agencies shall ensure, to the maximum extent practicable, that—

(1) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs, incurred by entities in measuring and reporting greenhouse gas emissions; and

(b) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than one reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestitures), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reduction credits resulting from a voluntary private transaction between reporting entities.

(d) Baseline Identification and Protection.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—

(1) for the provision of unique serial numbers to each entity that has earned emission reductions made by an entity relative to the baseline of the entity;

(2) for the tracking of the reductions associated with the serial numbers, and

(3) that the reductions may be applied, as determined to be appropriate by any Act of Congress enacted after the date of enactment of this Act, toward a Federal requirement established under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.
SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline (including all of the entity’s greenhouse gas emissions on an entity-wide basis); and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING THE REGISTRY.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the purposes of this title, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emissions expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the greenhouse gas emissions from fossil fuel combustion by products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other estimates of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a)(1) (along with publishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the due date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emissions generated by the entity—

(A) transfers of project reductions to and from any other entity;

(B) transfers of project reductions that reduce greenhouse gas emissions; and

(C) other indirect emissions that are not required to be reported under paragraph (1); and

(ii) product use phase emissions; and

(iii) transfers to greenhouse gas emissions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(b), or submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of Management and Budget determines in the regulations promulgated under section 1104(c)(1) that the reporting requirements under section 1108(b) that the reporting requirements of paragraphs (1) and (2) represent a risk to national security, the designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) compiled;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas data that the entity has submitted are—

(A) the appropriate units for reporting each greenhouse gas emission;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emissions in a manner that will encourage the development of private sector trading and exchange of greenhouse gas allowance credits; and

(C) the greenhouse gas and sequestration methods and standards applied in other countries, as applicable.

(5) REPORTS TO THE REGISTRY.—The designated agencies shall ensure, to the maximum extent practicable, that the database, and information in the database, is publicly available.

(6) INDEPENDENT third-party verification.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section shall—

(A) obtain independent third-party verification; and

(B) report the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database, and information in the database, is integrated with Federal and State greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In determining the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emissions in a manner that will encourage the development of private sector trading and exchange of greenhouse gas allowance credits; and

(C) the greenhouse gas and sequestration methods and standards applied in other countries, as applicable.

(10) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.

(11) THE DIFFERENCES IN, AND POTENTIAL UNIQUENESS OF, THE FACILITIES, OPERATIONS, AND BUSINESS AND OTHER RELEVANT PRACTICES OF ENTITIES AND ENTITIES IN OTHER COUNTRIES, AS APPLICABLE.

(12) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.

(13) THE DIFFERENCES IN, AND POTENTIAL UNIQUENESS OF, THE FACILITIES, OPERATIONS, AND BUSINESS AND OTHER RELEVANT PRACTICES OF ENTITIES AND ENTITIES IN OTHER COUNTRIES, AS APPLICABLE.

(14) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.

(15) THE DIFFERENCES IN, AND POTENTIAL UNIQUENESS OF, THE FACILITIES, OPERATIONS, AND BUSINESS AND OTHER RELEVANT PRACTICES OF ENTITIES AND ENTITIES IN OTHER COUNTRIES, AS APPLICABLE.

(16) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.

(17) THE DIFFERENCES IN, AND POTENTIAL UNIQUENESS OF, THE FACILITIES, OPERATIONS, AND BUSINESS AND OTHER RELEVANT PRACTICES OF ENTITIES AND ENTITIES IN OTHER COUNTRIES, AS APPLICABLE.

(18) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.

(19) THE DIFFERENCES IN, AND POTENTIAL UNIQUENESS OF, THE FACILITIES, OPERATIONS, AND BUSINESS AND OTHER RELEVANT PRACTICES OF ENTITIES AND ENTITIES IN OTHER COUNTRIES, AS APPLICABLE.

(20) THE EXTENT TO WHICH AVAILABLE FOSSIL FUELS, GREENHOUSE GAS EMISSIONS, AND GREENHOUSE GAS PRODUCTION AND IMPORTATION DATA ARE ADEQUATE TO IMPLEMENT THE DATABASE.
and standards used by the designated agencies determine to be appropriate; (B) standardization and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions; (C) in coordination with the Secretary of Agriculture, establish the results of the use of carbon sequestration and carbon capture technologies, including— (i) organic soil carbon sequestration practices; and (ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification; (D) recommendations and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; (E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and verification system; (F) review and revision of paragraph (1), the methods and standards developed under subsection (a); (G) public participation.—The Secretary of Commerce shall— (1) 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); and (2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database; (H) experts and consultants.—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, in the design, development, measurement, certification, and emission trading; (2) available arrangements.—In obtaining any service described in paragraph (1), the designated agencies may make any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS. (a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that— (1) describes the efficacy of the implementation and operation of the database; and (2) includes any recommendations for improvements to this title and programs carried out under this title— (A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and (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, REVISION, AND REGISTRATION. (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 determine whether to submit 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.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry— (1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)) regardless of any participation or nonparticipation by the entities in the registry; and (2) each entity shall submit a report described in section 1105(c)(4) not later than 4 years after the date of enactment of this Act.

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 may, at the request of the Director of the Office of National Climate Change Policy, bring a civil action in the United States district court against the entity to impose an entity a civil penalty of not more than $25,000 for each day for 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 submit 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.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 1201. SHORT TITLE. This division may be cited as the “Energy Science and Technology Enhancement Act of 2003.”

SEC. 1202. FINDINGS. The Congress finds the following: (1) A comprehensive energy strategy requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry. (2) An aggressive national energy research, development, demonstration, and technology deployment program is an integral part of a national climate change strategy, because it can reduce— (A) United States energy intensity by 1.9 percent per year from 1999 to 2020; (B) United States energy consumption in 2020 by 1 quadrillion Btu from otherwise expected levels; (C) United States carbon dioxide emissions from expected levels by 166 million metric tons in carbon equivalent in 2020; and (3) An aggressive national energy research, development, demonstration, and technology deployment program can help maintain domestic United States energy production, increase United States hydrocarbon reserves by 14 percent, and lower natural gas prices by 20 percent, compared to estimates for 2020.

Title "Institution of higher education": The term “institution of higher education” has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1001).

SEC. 1203. NATIONAL LABORATORIES.—The term “National Laboratory” means any of the following multipurpose laboratories owned by the Department of Energy— (A) Argonne National Laboratory; (B) Brookhaven National Laboratory; (C) Idaho National Engineering and Environmental Laboratory; (D) Lawrence Berkeley National Laboratory; (E) Lawrence Livermore National Laboratory; (F) Los Alamos National Laboratory; (G) National Energy Technology Laboratory; (H) National Renewable Energy Laboratory; (I) Oak Ridge National Laboratory; (J) Pacific Northwest National Laboratory; or (K) Sandia National Laboratory. (k) SECRETARY.—The term “Secretary” means the Secretary of Energy.


SEC. 1205. CONSTRUCTION WITH OTHER LAWS. Except as otherwise provided in this title and title XIV, the Secretary shall carry out the research, development, demonstration, and technology deployment programs authorized by this title in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 1701 et seq.), the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 17301 et seq.), and any other Act under which the Secretary is authorized to carry out such activities.

Subtitle A—Energy Efficiency

SEC. 1211. ENHANCED ENERGY EFFICIENCY RESEARCH, DEVELOPMENT, AND DEPLOYMENT.—(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development,
The goal of the industrial energy efficiency program shall be to develop, in partnership with industry, enabling technologies, designs, production methods, and supporting activities that will, by 2010, enable energy-intensive industries such as the following industries to reduce their energy intensity by at least 25 percent:
(A) the wood product manufacturing industry;
(B) the pulp and paper industry;
(C) the primary aluminum production industry;
(D) the mining industry;
(E) the chemical manufacturing industry;
(F) the glass and glass product manufacturing industry;
(G) the iron and steel mills and ferroalloy manufacturing industry;
(H) the primary aluminum production industry.

The goal of the transportation energy efficiency program shall be to develop, in partnership with industry, technologies that will enable the achievement—
(A) by 2010, passenger automobiles with a fuel efficiency of 60 miles per gallon;
(B) by 2010, light trucks (classes 1 and 2a) with a fuel economy of 60 miles per gallon;
(C) by 2010, medium trucks and buses (classes 2b through 6 and class 8 transit buses) with a fuel economy, in ton-miles per gallon, that is two times that of year 2000 equivalent vehicles;
(D) by 2010, heavy trucks (classes 7 and 8) with a fuel economy, in ton-miles per gallon, that is two times that of year 2000 equivalent vehicles; and
(E) by 2015, the production of fuel-cell powered passenger vehicles with a fuel economy of 110 miles per gallon.

The objective of the initiative with respect to organic white light emitting diode technology shall be to develop an organic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime.

The objective of the initiative with respect to organic white light emitting diode technology shall be to develop an organic white light emitting diode with an efficiency of 160 lumens per watt with a 5-year lifetime that—
(A) illuminates over a full color spectrum;
(B) covers large areas over flexible surfaces; and
(C) does not contain harmful pollutants typical of fluorescent lamps such as mercury.

The consortium shall be funded—
(A) participation fees; and
(B) grants provided under subsection (e)(1).

The consortium shall—
(A) enter into a consortium participation agreement that—
(i) is agreed to by all participants; and
(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and
(B) develop an annual program plan.

In general, the Secretary 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.

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 based on white light emitting diodes; and
(B) three members from a list of not less than six nominees from industry submitted by the consortium.

The study shall—
(A) in general, the Secretary shall submit 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.

The requirements for the implementation of the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.

None of the funds authorized under section 1211(c), there are authorized to be appropriated 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. 7333(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

The Secretary shall implement the initiative in accordance with the recommendations of the planning board.

The planning board shall terminate upon completion of the study under paragraph (3).

The Secretary shall, in the context of the findings to conduct basic and manufacturing-related research related to advanced solid-state lighting technologies based on white light emitting diode technologies.

The consortium shall—
(A) in general, the consortium shall be comprised of firms, national laboratories, and other organizations that are representative of the United States solid-state lighting research, development, and manufacturing expertise as a whole.

Funding—The consortium shall be funded by—
(A) participation fees; and
(B) grants provided under subsection (e)(1).

ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—
(A) enter into a consortium participation agreement that—
(i) is agreed to by all participants; and
(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and
(B) develop an annual program plan.

The consortium shall have royalty-free non-exclusive rights to use intellectual property derived from consortium research conducted under subsection (e)(1).

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 based on white light emitting diodes; and
(B) three members from a list of not less than six nominees from industry submitted by the consortium.

The study shall—
(A) in general, the Secretary shall submit 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.

The requirements for the implementation of the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.

None of the funds authorized under section 1211(c), there are authorized to be appropriated 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. 7333(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

The Secretary shall implement the initiative in accordance with the recommendations of the planning board.

The planning board shall terminate upon completion of the study under paragraph (3).

The Secretary shall—
(A) in general, the consortium shall be comprised of firms, national laboratories, and other organizations that are representative of the United States solid-state lighting research, development, and manufacturing expertise as a whole.

Funding—The consortium shall be funded by—
(A) participation fees; and
(B) grants provided under subsection (e)(1).

ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—
(A) enter into a consortium participation agreement that—
(i) is agreed to by all participants; and
(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and
(B) develop an annual program plan.

The consortium shall have royalty-free non-exclusive rights to use intellectual property derived from consortium research conducted under subsection (e)(1).

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 based on white light emitting diodes; and
(B) three members from a list of not less than six nominees from industry submitted by the consortium.

The study shall—
(A) in general, the Secretary shall submit 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.

The requirements for the implementation of the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.

None of the funds authorized under section 1211(c), there are authorized to be appropriated 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. 7333(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

The Secretary shall implement the initiative in accordance with the recommendations of the planning board.

The planning board shall terminate upon completion of the study under paragraph (3).

The Secretary shall, in the context of the findings to conduct basic and manufacturing-related research related to advanced solid-state lighting technologies based on white light emitting diode technologies.

The consortium shall—
(A) in general, the consortium shall be comprised of firms, national laboratories, and other organizations that are representative of the United States solid-state lighting research, development, and manufacturing expertise as a whole.

Funding—The consortium shall be funded by—
(A) participation fees; and
(B) grants provided under subsection (e)(1).
(A) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds made available under this section have been expended in a manner consistent with the objectives under subsection (b) and, in the case of funds made available to the consortium, the annual program plan of the consortium under subsection (c).

(B) REPORTS.—The auditor shall submit to Congress, the Secretary, and the Comptroller General of the United States an annual report containing the results of the audit.

(6) APPLICABLE LAW.—Grants, contracts, and cooperative agreements under this section shall not be subject to the Federal Acquisition Regulation.

(f) PROTECTION OF INFORMATION.—Information obtained by the Federal Government 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.

(g) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 1211(c), there are authorized to be appropriated for activities under this section $50,000,000 for each of fiscal years 2003 through 2011.

(h) IN GENERAL.—

(1) ADVANCED SOLID-STATE LIGHTING.—The term ‘‘advanced solid-state lighting’’ means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) CONSORTIUM.—The term ‘‘consortium’’ means the Next Generation Lighting Initiative established under subsection (c).

(3) INITIATIVE.—The term ‘‘initiative’’ means the Next Generation Lighting Initiative established under subsection (a).

(4) INORGANIC WHITE LIGHT EMITTING DIODE.—The term ‘‘inorganic white light emitting diode’’ means an inorganic semiconductor package that produces white light using externally applied voltage.

(5) ORGANIC WHITE LIGHT EMITTING DIODE.—The term ‘‘organic white light emitting diode’’ means—

(A) an inorganic white light emitting diode; or

(B) an organic white light emitting diode.

SEC. 1215. HIGH POWER DENSITY INDUSTRY PRO-

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal efficiency, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 1216. RESEARCH REGARDING PRECIOUS METALS—

The Secretary of Energy may, for the purpose of developing improved industrial and autono-
motive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, through national laboratories, or through contracts or consortia with public or non-profit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2015.

Subtitle B—Renewable Energy

SEC. 1221. ENHANCED RENEWABLE ENERGY RE-

(a) PROGRAM DIRECTION.—The Secretary shall conduct balance, development, demonstration, and technology deployment programs to enhance the use of renewable energy.

(b) PROGRAM GOALS.—

(1) IN GENERAL.—The goals of the wind power program shall be to develop, in partnership with industry, a variety of advanced wind turbine designs and manufacturing technologies that are cost-competitive with fossil-fuel generated electricity, with a focus on developing advanced low wind speed technologies that, by 2007, will enable the expanding utilization of widespread class 3 and 4 winds.

(2) PHOTOVOLTAICS.—The goal of the photovoltaic program shall be to develop, in partnership with industry, total photovoltaic systems with installed peak-per-kilowatt by 2005 and $2,000 per peak kilowatt by 2015.

(3) SOLAR THERMAL ELECTRIC SYSTEMS.—The goal of the solar thermal electric systems program shall be to develop, in partnership with industry, solar power technologies (including baseload solar power) that are competitive with fossil-fueled generated electricity by 2005, by combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles.

(4) BIOBASED POWER SYSTEMS.—The goal of the biomass program shall be to develop, in partnership with industry, integrated power-generation systems, advanced conversion, and biofuels technologies capable of producing electric power that is cost-competitive with fossil-fuel generated electricity by 2010, together with the production of fuels, chemicals, and other products under paragraph (6).

(5) GEOTHERMAL ENERGY.—The goal of the geothermal program shall be to develop, in partnership with industry, technologies and processes based on geothermal systems and advanced heat and power systems, including geothermal heat pump technology, with a specific focus on—

(A) improving exploration and characterization technology to increase the probability of drilling successful wells from 20 percent to 40 percent by 2006;

(B) reducing the cost of drilling by 2008 to an average cost of $150 per foot; and

(C) developing enhanced geothermal systems technology with the potential to double the useable geothermal capacity.

(6) BIOFUELS.—The goal of the biofuels program shall be to develop, in partnership with industry—

(A) advanced biochemical and thermochemical conversion technologies capable of making liquid and gaseous fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell vehicles by 2010; and

(B) advanced biotechnology processes capable of making biofuels, biobased polymers, and chemicals with emphasis on the development of bio refineries that use enzyme based processing systems.

For purposes of this paragraph, the term ‘‘cellulosic feedstocks’’ means a portion of a food crop not normally used in food production or any nonfood crop grown for the purpose of producing biomass feedstock.

(7) HYDROPOWER ENERGY SYSTEMS.—The goal of the hydropower program shall be to support research and development on technologies for production, storage, and use of hydrogen, including fuel cells and, specifically, fuel-cell vehicle development activities under section 1211.

(8) HYDROPOWER.—The goal of the hydropower program shall be to develop, in partnership with industry, a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems.

(9) ELECTRIC ENERGY SYSTEMS AND STORAGE.—

The goals of the electric energy and storage program shall be to develop, in partnership with industry—

(A) generators and transmission, distribution, and storage systems that combine high capacity with high efficiency;

(B) technologies to interconnect distributed energy resources with electric power systems, comply with any national interconnection standards, have a minimum 10-year useful life;

(C) advanced technologies to increase the average efficiency of electric transmission facilities in rural and remote areas, giving priority for demonstrations to advanced transmission technologies that are being or have been field tested;

(D) the use of new transmission technologies, including flexible alternating current transmission systems, converter materials, advanced protection devices, controllers, and other cost-effective methods and technologies;

(E) the use of superconducting materials in power delivery equipment, including transmission and distribution cables, transformers, and generators;

(F) energy management technologies for enterprises with aggregated loads and distributed generation, such as power parks;

(G) economic and system models to measure the costs and benefits of improved system performance;

(H) hybrid distributed energy systems to optimize two or more distributed or on-site generation technologies; and

(I) real-time transmission and distribution system control technologies that provide for continual exchange of information between generation, transmission, distribution, and end-user facilities.

(c) SPECIAL PROJECTS.—In carrying out this section, the Secretary shall demonstrate—

(1) the use of advanced wind power technology, biomass, geothermal energy systems, and other renewable energy technologies to assist in delivering electricity to rural and remote locations;

(2) the combined use of wind power and coal gasification technologies; and

(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, and power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems.

(d) FINANCIAL ASSISTANCE TO RURAL AREAS.—In carrying out special projects under subsection (c), the Secretary may provide financial assistance to rural electric cooperatives and other rural entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—

(1) $500,000,000 for fiscal year 2003;

(2) $500,000,000 for fiscal year 2004;

(3) $683,000,000 for fiscal year 2005; and

(4) $733,000,000 for fiscal year 2006, of which $100,000,000 may be allocated to meet the goals of subsection (b)(1).

SEC. 1222. BIOENERGY PROGRAMS.

(a) PROGRAM DIRECTION.—The Secretary shall carry out research, development, demonstration, and technology deployment activities related to bioenergy, including programs under paragraphs (4) and (6) of section 1221(b).

SEC. 1223. ADVANCED TECHNOLOGIES.
(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 systems—
(A) $60,300,000 for fiscal year 2003;
(B) $63,300,000 for fiscal year 2004;
(C) $74,600,000 for fiscal year 2005; and
(D) $86,250,000 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 systems—
(A) $57,500,000 for fiscal year 2003;
(B) $66,125,000 for fiscal year 2004;
(C) $76,000,000 for fiscal year 2005; and
(D) $81,400,000 for fiscal year 2006.

(3) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—The Secretary may use funds authorized under paragraph (1) or (2) for programs, projects, or activities that integrate applications for both biopower and biofuels, including cross-cutting research and development in feedstocks and economic analysis.

SEC. 1223. HYDROGEN RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the “Hydrogen Future Act of 2003”.

(b) PURPOSES.—Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

(2) to direct the Secretary to develop a program to accelerate wider application of hydrogen technologies; and

(3) to develop methods of hydrogen production that minimize production of greenhouse gases, and use.

(c) REPORT TO CONGRESS.—Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12402) is amended—

(1) in subsection (b), by striking “market-place” and inserting “marketplace, including foreign markets, particularly where an energy infrastructure is not well developed”;

(2) in subsection (c), by striking “this chapter” and inserting “this Act”;

(3) by striking subsection (g) and inserting the following:

(g) COST SHARING.—

(1) IN GENERAL.—The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains certification that—

(A) reasonable efforts to obtain non-Federal funding in the amount necessary to pay 100 percent of the cost of the project have been made; and

(B) non-Federal funding in that amount could not reasonably be obtained.

(2) NON-FEDERAL FUNDING.—

(A) IN GENERAL.—The Secretary shall require a commitment from non-Federal sources of at least 25 percent of the cost of the project.

(B) REDUCTION OR ELIMINATION.—The Secretary may reduce or eliminate the cost-sharing requirement under subparagraph (A) for the proposed research and development project, by

(i) striking for technical analyses, economic analyses, outreach activities, and educational programs, if the Secretary determines that reduction or elimination is necessary to achieve the objectives of this Act;

(ii) in subsection (i), by striking “this chapter” and inserting “this Act”;

(iii) by adding at the end the following:

(D) DEMONSTRATIONS.—

(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.

(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(f) TECHNOLOGY TRANSFER.—Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12404) is amended by striking subsection (c) and inserting the following:

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The Secretary shall conduct a program designed to—

(A) accelerate wider application; and

(B) accelerate wider application of hydrogen technologies in countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.

(2) REAPPOINTMENT.—A member of the technical panel whose term expires may be reappointed.

(g) COST SHARING.—The Secretary may reduce or eliminate the cost-sharing requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(h) MEMBERSHIP.—The technical panel shall be comprised of not fewer than 15 members appointed by the Secretary, to serve terms of not less than 3 years.

(i) SOUTH AND CENTRAL AMERICAN DEVELOPMENT.—

(1) IN GENERAL.—The technical panel shall have a chairperson, and the following:

(1) CHAIRPERSON.—The technical panel shall have a chairperson, and

(2) in subsection (d), by striking “an inventory” and inserting “development with the National Aeronautics and Space Administration, the Department of Energy, other Federal agencies as appropriate, and industry, an information exchange program to improve”. 

(p) TECHNICAL PANEL REVIEW.—

(1) IN GENERAL.—Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407) is amended—

(A) in subsection (b)—

(i) by striking “(b) MEMBERSHIP.—The technical panel shall be comprised of not fewer than 9 nor more than 15 members appointed”;

(ii) in paragraph (2), by striking the second sentence and inserting the following:

“(b) MEMBERSHIP.—The technical panel shall be comprised of not fewer than 9 nor more than 15 members appointed”. 

Subject to section 102(b) of the Hydrogen Future Act of 1996, 

(2) NEW APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the technical panel.

(i) by striking “shall be comprised” and inserting “shall be comprised”;

(ii) in paragraph (b), by striking “and industry, an information exchange program to improve”;

(j) IN FUEL CELLS.—

(1) INVESTIGATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 210 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 the enactment of this section, and subject”

(2) IN GENERAL.—Subject;

(3) by striking “with—” and all that follows after “Federal, State, and local government facilities for stationary and transportation applications;”.
Subtitle C—Fossil Energy

SEC. 1231. ENHANCEMENT OF 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.—The Secretary shall conduct a balanced fossil energy research and development program to advance the science and technology available to domestic 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-deepest part of the Central and Western Gulf of Mexico.

(2) Onshore Oil and Natural Gas Resources.—The goal of the onshore oil and natural gas resources 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.

(3) Transportation Fuels.—The goals of the transportation fuels program shall be to increase the price elasticity of oil supply and demand by focusing on—

(A) reducing the cost of producing transportation fuels from coal and natural gas; and

(B) indirect liquefaction of coal and biomass.

(c) Authorization 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) $485,000,000 for fiscal year 2003;

(B) $508,000,000 for fiscal year 2004;

(C) $532,000,000 for fiscal year 2005; and

(D) $558,000,000 for fiscal year 2006.

(2) Limits on Use of Funds.—None of the funds authorized in paragraph (1) may be used for—

(A) fossil energy environmental restoration;

(B) import/export authorization;

(C) program direction; or

(D) general administration.

(3) Coal-Based Projects.—The coal-based projects funded under this section shall be consistent with the goals in subsection (b). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, hydrogen fuel cells, co-firing, co-production, hybrid gasification(combustion, or other technology with the potential to address the goals in subparagraphs (D) or (E) of subsection (b).

SEC. 1232. POWER PLANT IMPROVEMENT INITIATIVE.

(a) Program Direction.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to demonstrate commercial applications of advanced lignite and coal-based technologies applicable to existing power plants (including co-production plants) that advance the efficiency, environmental performance, and cost-competitiveness substantially beyond technologies that are in operation or have been demonstrated by the date of enactment of this subtitle.

(b) Milestones.—(1) In General.—The milestones shall be set technical milestones specifying efficiency and emissions levels that projects shall be designed to achieve. The milestones shall be no more restrictive over the life of the program.

(2) 2010 Efficiency Milestones.—The milestones shall be designed to achieve by 2010 thermal efficiency of—

(A) sixty percent for coal of more than 9,000 Btu;

(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) Emissions Milestones.—The milestones shall include near zero emissions of mercury and greenhouse gases and of emissions that form fine particles, smog, and acid rain.

(4) Regional and Quality Differences.—The Secretary may consider regional and quality differences in developing the efficiency milestones.

(c) Project Criteria.—The demonstration activities proposed to be conducted at a new or existing coal-based electric generating unit having a nameplate rating of not less than 100 megawatts, excluding a co-production plant, shall include at least one of the following—

(A) a means of recycling or reusing a significant portion of coal combustion wastes produced by coal-based generating units, excluding practices that are commercially available by the date of enactment of this subtitle.

(B) a means of controlling sulfur dioxide and nitrogen oxide or mercury in a manner that improves environmental performance beyond technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle.

(C) a means of controlling fossil fuel emissions, including greenhouse gases, in a manner that is more effective and substantially below the cost of technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle—

(1) in the case of an existing unit, achieve an overall thermal design efficiency improvement of not less than—

(i) 4 percent for coal of more than 9,000 Btu;

(ii) 6 percent for coal of 7,000 to 9,000 Btu; and

(iii) 8 percent for coal of less than 7,000 Btu.

(2) in the case of a new unit, achieve the efficiency milestones set for in subsection (b) compared to the efficiency of a typical unit as operated on the date of enactment of this subtitle.
(d) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretaries of the Interior, Agriculture, and the Department of Energy, and interested entities (including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers), shall conduct an assessment that identifies performance criteria that would be necessary for coal-based technologies to meet the challenges of coal mining in an environmentally sustainable manner for electricity generation, use as a chemical feedstock, and use as a transportation fuel. 

(1) AWARD.—(A) The term “award” means a water depth that is greater than 200 meters.

(2) ELIGIBLE AWARD RECIPIENT.—(A) The term “eligible award recipient” means a water depth that is equal to or greater than 1,500 meters.

(3) DEEPWATER.—The term “deepwater” means a water depth that is greater than 200 meters.

(4) ULTRA-DEEPWATER.—The term “ultra-deepwater” means a water depth that is equal to or greater than 1,500 meters.

(5) ULTRA-DEEPWATER RESOURCE.—The term “ultra-deepwater resource” means natural gas or any other petroleum resource located in an ultra-deepwater area.

(6) CONGRESSIONAL RECORD.—The Secretary shall establish an advisory committee that will serve as guidelines for making awards in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(7) Ultra-Deepwater and Unconventional Resource Exploration and Production Program.—In furtherance of the purposes described in clause (i), the Secretary shall, where appropriate, solicit proposals from a managing consortium to develop and demonstrate an ultra-deepwater architecture for ultra-deepwater resource production.

(b) ADVISORY COMMITTEE.—(1) ESTABLISHMENT.—The Secretary shall establish an advisory committee to carry out research and development of, technologies to maximize the value of ultra-deepwater resources of the United States; and

(ii) to improve safety and minimize negative environmental impacts of that exploration and production.

(2) INDUSTRY INPUT.—(A) The Secretary shall establish an advisory committee that defines, in cooperation with the mining industry, institutions of higher education and other relevant entities (including coal producers, institutions of higher education, and interested entities), that represents the views and priorities of the mining industry.

(i) has extensive operational knowledge of unconventional oil and gas resources; and

(3) DUTIES.—The advisory committee shall advise the Secretary with respect to the implementation of this section and shall—

(ii) is exempt from taxation under section 501(a) of that Code;

(1) INDUSTRY INPUT.—(A) The Secretary shall establish an advisory committee evaluating consortium or other organizations in planning and executing the research areas and conducting

(i) to carry out research into, and development and demonstration of, ultra-deepwater resource exploration and production technologies;

(2) MEMBERSHIP.—(A) The advisory committee shall—

(iii) to furtherance of the purposes described in clause (i), shall—

(iv) to carry out research into, and development and demonstration of, technologies to maximize the value of unconventional resources; and

(2) INDUSTRY INPUT.—(A) The Secretary shall establish an advisory committee evaluating consortium 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.

(4) AUDITING.—(I) 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.

(i) SAVINGS PROVISION.—Nothing in this section shall in any way diminish or duplicate or diminish any previously authorized research activities of the Department of Energy.

SEC. 1233. RESEARCH AND DEVELOPMENT FOR NEW AND ALTERNATIVE GASEOUS TRANSPORTATION TECHNOLOGIES.

The Secretary of Energy shall conduct a comprehensive 5-year program for research, development, and demonstration of technologies 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 generation systems, and all ancillary equipment for dispatch, control, and maintenance).

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 2003 through 2011.

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $40,000,000 to the Secretary to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE-FG22-95PC99577 in such terms and conditions as the Secretary determines including interest rates and upfront payments.

Subtitle D—Nuclear Energy

SEC. 1241. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.

(a) PROGRAM DIRECTION.—The Secretary shall conduct an energy research, development, demonstration, and technology deployment program to enhance the understanding of the processes that determine the lifetime and increase their reliability while optimizing their current operations for greater efficiencies.

(b) PROGRAM GOALS.—The program shall—

(1) support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while 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, lower cost, and improved safety;

(C) the implementation of existing research and development activities carried out under the amendments made by section 1223, designs for a high temperature reactor capable of producing large-scale quantities of hydrogen using thermochemical processes; and

(D) proliferation-resistant and high-burn-up nuclear fuels;

(E) minimization of generation of radioactive materials;

(F) improved nuclear waste management technologies;

(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 radiation safety) to work on new science and engineering education initiatives.

(4) university-based fundamental research for existing faculty and new junior faculty;

(5) support the re-licensing of existing training reactors at universities in conjunction with industry; and

(6) complete the conversion of existing training reactors to low-enrichment fuels that are not lightened and to adapt those reactor to new investigative uses;

(7) maintain a national capability and infrastructure to support and ensure a well trained cadre of nuclear medicine specialists in partnership with industry;

(8) ensure that our nation has adequate capability to power future satellite and space missions; and

(h) maintain, where appropriate through a prioritization process, a balanced research infrastructure to ensure future research programs can use these facilities.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) CORE 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 (3) $200,000,000 for fiscal year 2003; $170,000,000 for fiscal year 2004; and $110,000,000 for fiscal year 2005.

(2) SUPPORTING NUCLEAR ACTIVITIES.—There are authorized to be appropriated to the Secretary for carrying out activities under subsection (b)(4) through (6), as well as nuclear facilities management and program direction—

(A) $200,000,000 for fiscal year 2003;

(B) $200,000,000 for fiscal year 2004;

(C) $200,000,000 for fiscal year 2005; and

(D) $110,000,000 for fiscal year 2006.

SEC. 1242. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) ESTABLISHMENT.—The Secretary shall—

(1) develop a graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through the National Nuclear Research Initiation Grant Program;

(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(b) MAINTENANCE UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include:

(1) converting research reactors to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among universities.

(2) providing technical assistance, in collaboration with nuclear industry support in re-licensing and upgrading training reactors as part of a student training program.

(3) Providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-NATIONAL LABORATORY INTERACT.—The Secretary shall—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at National Laboratories in the areas of nuclear science and engineering technology;

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments. The Secretary may provide for fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a university research reactor used in the research project, on a cost-shared basis with the university.

(f) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c)(1), the following amounts are authorized for activities under this section—

(1) $33,000,000 for fiscal year 2003;

(2) $37,000,000 for fiscal year 2004;

(3) $43,000,000 for fiscal year 2005; and

(4) $50,000,000 for fiscal year 2006.

SEC. 1243. NUCLEAR ENERGY RESEARCH INITIATIVE.

(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 1243(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. 1244. NUCLEAR ENERGY PLANT OPTIMIZATION 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 1243(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 DEVELOPMENT 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 power plants 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 plants and technology development and performance of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment. The study shall examine advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiencies, lower cost and improved safety, improved proliferation-resistant and high burn-up fuels, minimization of generation of radioactive materials, improved nuclear waste management technology, and improved disposal of waste materials. Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the study.

(f) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized to be appropriated 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.

Subtitle E—Fundamental Energy Science

SEC. 1251. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE

(a) Program Direction.—The Secretary, acting through the Office of Science, shall—
(1) conduct a comprehensive program of fundamental energy research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics and computer science, and social sciences; and
(2) ensure that national energy research facilities and equipment are more fully utilized with appropriate measurements and control tools.

(b) Authorization of Appropriations.—
(1) $3,785,000,000 for fiscal year 2003;
(2) $300,000,000 for fiscal year 2004;
(3) $310,000,000 for fiscal year 2005; and
(4) $320,000,000 for fiscal year 2006.

SEC. 1252. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.

(a) Establishment.—The Secretary, acting through the Office of Science, shall support a program of research and development in nanoscience and nanotechnology consistent with the Department’s statutory authorities related to departmental missions. The program shall include efforts to further the understanding of the chemistry, physics, materials science and engineering of phenomena on the scale of 1 to 100 nanometers.

(b) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science—
(1) shall support research and development activities under this subtitle—
(A) $3,785,000,000 for fiscal year 2003;
(B) $313,000,000 for fiscal year 2004;
(C) $313,000,000 for fiscal year 2005; and
(D) $330,000,000 for fiscal year 2006.

(c) Nanoscience and Nanotechnology Research Centers and Major Instruments—

(1) Authorization.—From amounts authorized 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) $310,000,000 for fiscal year 2005; and
(D) $330,000,000 for fiscal year 2006.

(2) Authorization for Appropriations.—
(A) $135,000,000 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.

(d) Coordination with DOE National Nuclear Security Agency Accelerated Strategic Computing Initiative and Other National Computing Programs.—The Secretary shall ensure that this program, to the extent feasible, is integrated and consistent with—
(1) the American Nuclear Initiative of the National Nuclear Security Agency; and
(2) other national efforts related to advanced scientific computing and engineering.

SEC. 1253. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) Establishment.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation’s computing capability across a diverse set of grand challenge computationally intensive science problems related to departmental missions.

(b) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science—
(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms;
(2) enhance the foundations for scientific computing by developing the basic mathematical and computing tools and methods needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;
(3) enhance national collaborative 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
(4) 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 understanding.

(c) High-Performance Computing Act Program.—Section 203(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(a)) is amended—
(1) in paragraph (3), by striking “and” and inserting “, and”;
(2) in paragraph (4), by striking the period and inserting “; and”;
and
(3) by adding after paragraph (4) the following:
(5) conduct an integrated program of research, development and deployment of facilities to develop and deploy to scientific and technical users the high-performance computing and collaboration tools needed to fulfill the statutory mission of the Department of Energy in conducting basic and applied energy research.

(d) Coordination With the DOE National Nuclear Security Agency Accelerated Strategic Computing Initiative and Other National Computing Programs.—The Secretary shall—
(1) the American Nuclear Initiative of the National Nuclear Security Agency; and
(2) advanced scientific computing and engineering.

(e) Authorization of Appropriations.—From amounts authorized under section 1251(b), the following amounts are authorized for activities under this section—

SEC. 1254. FUSION ENERGY SCIENCES PROGRAM—OVERALL PLAN AND PLANNING.

(a) Overall Plan for Fusion Energy Sciences Program.—Not later than 6 months after the date of enactment of this subtitle, the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop and transmit to the Congress a plan to ensure that adequate support is provided to the United States fusion research facilities.

(b) Authorizations for Appropriations.—

(A) $135,000,000 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.

(c) Duties of the Office of Science.—In carrying out the program under this section, the Office of Science—
(1) shall—
(A) develop any plan and budgetary submissions necessary to fully develop the plans described in subsection (b); and
(B) ensure that each plan and budgetary submission is consistent with scientific innovation and cost effectiveness;
(2) shall ensure that adequate support is provided to the United States fusion research facilities; and
(3) shall submit to the Congress no later than July 1, 2004, a review of the plan by the National Academy of Sciences of a plan developed under this subsection, he shall include the information described in paragraph (1) shall—
(A) address key burning plasma physics issues and
(B) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the design of the experiment including its estimated cost and potential construction sites.

(d) Coordination With the DOE National Nuclear Security Agency Accelerated Strategic Computing Initiative and Other National Computing Programs.—The Secretary shall—
(1) the American Nuclear Initiative of the National Nuclear Security Agency; and
(2) advanced scientific computing and engineering.

(e) Authorization of Appropriations.—From amounts authorized under section 1251(b), the following amounts are authorized for activities under this section—

SEC. 1255. FUSION ENERGY SCIENCES PROGRAM—NATIONAL EXPERIMENT.

(a) General Authority.—The Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, may conduct any research and development necessary to fully develop the plans described in this section.
SEC. 1261. CRITICAL ENERGY INFRASTRUCTURE PROTECTION RESEARCH AND DEVELOPMENT.

(a) In general.—The Secretary shall carry out a research, development, demonstration, and technology deployment program, in partnership with industry, on critical energy infrastructure protection, consistent with the roles and missions outlined for the Secretary in Presidential Decision Directive 63, entitled "Critical Energy Infrastructure Protection". The program shall have the following goals:

(1) Increase the understanding of physical and information system disruptions to the energy infrastructure that could result in cascading or widespread regional outages.

(2) Develop energy infrastructure assurance "best practices" through vulnerability and risk assessments.

(3) Protect against, mitigate the effect of, and improve recovery from disruptive incidents within the energy infrastructure.

(b) Program scope.—The program under subsection (a) shall include research, development, deployment, technology demonstration for—

(1) analysis of energy infrastructure interdependencies to quantify the impacts of system vulnerabilities in relation to each other;

(2) probabilistic risk assessment of the energy infrastructure to account for unconventional and terrorist threats;

(3) threat tracking and trend analysis tools to assess the severity of threats and reported incidents to the energy infrastructure; and

(4) integration of sensor, warning and mitigation technologies to detect, integrate, and localize events affecting the energy infrastructure including real time control to permit the reconfiguration of energy delivery systems.

(c) Regional coordination.—The program under this section shall cooperate with Departmental activities to promote regional coordination under this Act, to ensure that the technologies and assessments developed by the program are transferred in a timely manner to State and local authorities, and to the energy industry.

(d) Coordination with industry research organizations.—The Secretary may enter into grants, contracts, and cooperative agreements with industry research organizations to facilitate industry participation in research under this section and to fulfill applicable cost-sharing requirements.

(e) Authorization of appropriations.—There is authorized to be appropriated to the Secretary to carry out this section—

(1) for fiscal year 2003, $335,000,000;

(2) for fiscal year 2004, $349,000,000;

(3) for fiscal year 2005, $362,000,000; and

(4) for fiscal year 2006, $377,000,000.

Subtitle E—Energy, Safety, and Environmental Protection

SEC. 1262. RESEARCH AND DEMONSTRATION FOR REDUCTION 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 for carrying out this program—

(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) $230,000,000 for fiscal year 2006.

Subtitle F—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) Program direction.—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 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 simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(2) 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.

(3) Integrated assessment.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, including integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change, transmission, and adaptation for mitigating or adapting to climate change.

(c) Authorization of appropriations.—There is 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) $230,000,000 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 technology to reduce, avoid, or sequester greenhouse gas emissions in the long term by the development of technologies and practices designed to—

(A) reduce or avoid anthropogenic emissions of greenhouse gases;

(B) remove and sequester greenhouse gases from the atmosphere; and

(C) remove and sequester greenhouse gases from emissions streams; and

(2) Carrying out research on the matters described in paragraphs (1) and (2) in land grant universities and other research institutions.

Subtitle G—Department of Agriculture 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 that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) Agricultural research service.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) Cooperative state research, extension, and education service.—(A) In general.—The Secretary of Agriculture shall carry out research through the Cooperative State Research, Extension, and Education Service, to establish a competitive grant program to carry out research on the matters described in paragraphs (1) and (2) in land grant universities and other research institutions.

(B) Consultation on research topics.—Before issuing a request for proposals for basic research in the order paragraphs (1) and (2), 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 research projects underway at the Agricultural Research Service or other Federal agencies.

(3) PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other sciences to—
(i) promote understanding of—
(A) changes in soil carbon content in agricultural soils, plants, and trees; and
(B) changes in soil carbon pools are cost-effectively measured, monitored, and verified; and
(ii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a blending of 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 designed 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 National Institute of Standards and Technology, in developing new measurement techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and
(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH, EXTENSION, 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 encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) RESEARCH CONSORTIA.—

(1) IN GENERAL.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(d) AGENCIES.—

(1) IN GENERAL.—The agencies of the Department of Agriculture, the research centers of the National Aeronautics and Space Administration and the Department of Energy, the Federal Reserve System, and Federal financial institutions, shall cooperate with the Secretary of Agriculture in developing programs and projects to increase the sequestration of carbon and to measure and verify changes in soil carbon content and other carbon pools in agricultural soils, plants, and trees.

(2) SELECTION.—The Secretary of Agriculture shall carry out research projects under this section for a fiscal year, 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 ACCOUNTING RESEARCH.

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to measure the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under paragraph (1) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which proposals are made to demonstrate the feasibility of methods of measuring, verifying, and monitoring changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include the evaluation of the implications of the demonstration projects under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(C) EVALUATION AND REPORT.—The Secretary of Agriculture shall submit to the appropriate committee of Congress a report on the results of the conference.
developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of enactment of this section, the Secretary of Agriculture, in collaboration with other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.

(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 an international carbon dioxide storage 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

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ‘clean energy technology’ means an energy supply 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 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 subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(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. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the near future, significant changes in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of the Treasury, the Environmental Protection Agency, the U.S. Agency for International Development, the Export-Import Bank, the World Bank, the United States Trade Representative, the United States Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;

(B) develop a strategy for addressing issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) education and training programs;

(ii) technical assistance and support for technologically knowledgeable individuals in developing countries, countries in transition, and other partner countries;

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-benefit mechanisms; and

(C) examine relevant trade, tax, international, and other policy issues to assess what policies would help open markets and improve United States clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives.

(4) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, shall submit a report to Congress indicating how United States funds appropriated pursuant to the Energy Policy Act of 2002; the Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Acts, 2002, and (F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency’s role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote small energy technologies participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall—

(1) establish, within 90 days after the date of enactment of this Act, and on April 1st of each year thereafter, an Interagency Working Group in that year, as well as any polices, plans, or other programs required by such Federal agency or Government corporation to carry out this section;

(2) make contributions to such an Interagency Working Group in the amount of not less than 1 percent of the total Federal support for United States clean energy technology exports.

(d) ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and on April 1st of each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy technology development by United States clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of Energy, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including commitments to multilateral environmental agreements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy, to support the activities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities designated in subsection (a) in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

(a) DEFINITIONS.—In this subsection:

(1) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ‘international energy deployment project’ means a project to construct an energy production facility outside the United States.

(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

(A) DEFINITIONS.—In this subsection:

(i) the output of which will be consumed outside the United States; and

(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented.

(b) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—

(1) DEFINITIONS.—In this subsection:

(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ‘international energy deployment project’ means an international energy deployment project that is submitted by a State or Federal agency in accordance with procedures established by the Secretary by regulation;

(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term ‘qualifying international energy deployment project’ means an international energy deployment project that is submitted by the Secretary in accordance with procedures established by the Secretary by regulation;

(C) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT STANDARDS.—The term ‘qualifying international energy deployment standards’ means standards that have been successfully developed or deployed in the United States;

(D) INTERAGENCY WORKING GROUP.—The term ‘interagency working group’ means the interagency working group established by subsection (a).

(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

(A) DEFINITIONS.—In this subsection:

(i) the amount of a loan or loan guarantee from the Secretary.

(b) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to any country in which the project is located.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

(2) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued to the Secretary for Treasury obligations that mature in the calendar year in which the loan is made.

(3) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

(B) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

(C) LOANS OR LOAN GUARANTEES.—Loans or loan guarantees made for projects to be located in a developing country, as listed in Annex I of the
United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

(iv) DEVELOPING COUNTRIES—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 10 percent contribution towards the total cost of the loan or loan guarantee by the host country.

(v) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component on technology transfer and capacity building. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible for direct funding by the Department of Energy under section 415 of the Clean Air Act (42 U.S.C. 7651n).

(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

SEC. 1304. CHANGE IN COMMITTEE NAME AND STRUCTURE.

(a) IN GENERAL.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under section 415 of the Clean Air Act (42 U.S.C. 7651n) should be continued, expanded, reduced, or eliminated.

(3) APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.

Subtitle D—Climate Change Science and Information

Part I—Amendments to the Global Change Research Act of 1990

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

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 of the Global Change Research Act of 1992 (see §1).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2932) is amended by striking “Earth and Environmental Sciences” inserting “Global Change Research.”

SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2933) is amended—

(1) by striking “Earth and Environmental Sciences” in the section heading and inserting “GLOBAL CHANGE RESEARCH”; and

(2) by striking “Earth and Environmental Sciences” in subsection (a) and inserting “Global Change Research”; and

(3) by striking the last sentence of subsection (b) and inserting “The representatives shall be the Deputy Secretary or the Deputy Secretary’s designee (or, in the case of an agency other than the Department of Energy, the head of that agency or the deputy’s designee).”; and

(4) by striking “Chairman of the Council,” in subsection (c), and inserting “Director of the Office of National Climate Change Policy with advice from the Chairman of the Council,” and;

(3) by redesignating subsections (d) and (e) as (e) and redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(5) by inserting after subsection (c) the following:

“(d) SUBCOMMITTEES AND WORKING GROUPS.—

(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the President shall designate.

(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

(A) the membership of the Subcommittee on Global Change Research established by this subsection; and

(B) such additional members as the Chair of the Committee may, from time to time, appoint.

(3) CHAIRPERSON.—The Chairperson of the Subcommittee 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, in terms of scientific research capability and budget, to the Program.

(4) CHAIRPERSONS AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.”

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 “use information on which to base policy decisions related to” in subsection (b)(1) and inserting “information relevant and readily usable by local, State, and Federal policymakers, and other stakeholders, as well as for short-term and long-term effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.”;

(3) by striking “;” and inserting “,” in subsection (d)(2);

(4) by inserting after subsection (b) the following:

“(d) FUNDING THROUGH NSIF.—(1) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish the National Global Change Research Program.

(2) M EMBERSHIP.—There shall be a Subcommittee and a working group established by the Director of the Office of Science and Technology Policy in the United States.

(3) FUNDING THROUGH NSIF.—(A) The Chairman of the Council, the President shall submit to the President a report on the progress of projects that are consistent with the National Global Change Research Program, and shall provide the Congress with an annual report on the activities of the Council and the Committee and the Integrated Program Office.

(4) SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

(b)(1) and inserting

(5) by adding at the end of subsection (c) the following:

“(6) Methods for integrating information to provide predictive and other tools for planning and decisionmaking by governments, communities, and the private sector.”;

(6) by striking subsection (d)(3) and inserting the following:

“(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policymakers, and other stakeholders, as well as for short-term and long-term effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.

(7) by striking “;” and inserting “,” in subsection (d)(2);

(b) by striking “change” in subsection (d)(3) and inserting “change;” and

(8) by adding at the end of subsection (d) the following:

“(4) ESTABLISHMENT.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the President shall designate.

(5) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

(A) the membership of the Subcommittee on Global Change Research established by this subsection; and

(B) such additional members as the Chair of the Committee may, from time to time, appoint.

(6) CHAIRPERSON.—The Chairperson of the Subcommittee 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, in terms of scientific research capability and budget, to the Program.

(7) CHAIRPERSONS AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.”

SEC. 1335. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2933) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(b) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

(c) FUNDING THROUGH NSF.—(1) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas. The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

(3) APPROPRIATIONS.—For fiscal year 2004 and each fiscal year thereafter, there are authorized to be appropriated $25,000,000 from the National Science Foundation to carry out this section.

(b) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

(c) FUNDING THROUGH NSF.—(1) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas. The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

(3) APPROPRIATIONS.—For fiscal year 2004 and each fiscal year thereafter, there are authorized to be appropriated $25,000,000 from the National Science Foundation to carry out this section.

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking “Scientific” in the section heading;

(2) by striking “and” after the semicolon in paragraph (2); and

(3) by striking “years.” in paragraph (3) and inserting “years; and;” and
(4) by adding at the end the following:—

"(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decision makers and to other groups 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, another provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

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 decadal fluctuations;"

(3) by striking "changes in paragraph (5) and inserting "changes and providing free exchange of data;"

(4) by adding at the end the following:—

"(7) The present rate of advance in research and development and application of such advances indicates that new technologies must be incorporated rapidly into services for the benefit of the public.

(8) The United States lacks adequate infrastructure to support research to meet national climate monitoring and prediction needs."

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesigning paragraphs (4) through (9) as paragraphs (5) through (10) respectively;

(2) by inserting after paragraph (3) the following:

"(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decisionmaking on land use, water hazards, and related issues;"

(3) by striking "climatic" after "collection," in paragraph (5), as redesignated;

(4) by striking "experimental" each place it appears in paragraph (9), as redesignated;

(5) by striking "studies" in paragraph (10), as redesignated;

(6) by striking "this Act," the first place it appears in paragraph (10), as redesignated, and inserting "the Global Climate Change Act of 2002;" and

(7) by striking "this Act," the second place it appears in paragraph (10), as redesignated, and inserting "that Act.""

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking "1979," and inserting "2002,;"

(2) by striking "1980," and inserting "2003;"

(3) by striking "1981," and inserting "2004;" and

(4) by striking "$25,500,000" and inserting "$75,500,000.

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

"SEC. 6. 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 Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

"(1) a national center for operational climate monitoring and predicting with the functionality to provide and maintain observing systems as necessary to reduce bias;

"(2) the design, deployment, and operation of an adequate network of observing systems that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

"(3) 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 system for producing long-term and short-term time scale and at a range of spatial scales;

"(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

"(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and impacts;

"(6) 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;

"(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and effective sharing of climate information and services, both domestically and internationally.

SEC. 1346. 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 context of longer-term 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, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) ATMOSPHERIC MONITORING AND VERIFICATION CENTER.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and concentrations. The program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.

(a) ARCTIC RESEARCH CENTER.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 2919) is amended by—

(1) by striking "Chairman" in paragraph (2) and inserting "Chairperson;"

(b) GRANTS.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:—

"(3) FUNDING FOR ARCTIC RESEARCH.—

"(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 appointed under section 106(a) may—

"(A) make grants to persons to conduct research related to the Arctic;

"(B) 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 taken by 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 designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term "abrupt climate change" means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2012, from such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7002(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military readiness;

(4) enhancing the safety and efficiency of maritime operations;

(5) supporting efforts to restore the health of and protect 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) providing information that contributes to public awareness of the state and importance of the oceans.

(c) Council functions.—In addition to its responsibilities under section 902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) conduct an inventory of existing observing systems and coordinate and stimulate the development of new observing systems to cover the oceans;

(2) establish a methodology for identifying and addressing information needs with respect to the oceans and existing observing systems;

(3) conduct periodic reviews of the observing system and make recommendations for improving it;

(4) prepare periodic reports on the status and future of the observing system;

(5) develop a plan for the establishment of an integrated observing system for the oceans.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle F—Climate Change and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for the purpose of assisting Federal agencies, States, and other appropriate local and regional governments to assess, adapt to, and mitigate the effects of global warming and climate variability, and to prepare for and reduce the impacts of expected changes in climate.

(b) COORDINATION.—In designing such program the President shall consult with the Federal Emergency Management Agency, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Secretary of Agriculture.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) develop a methodology for identifying and addressing information needs with respect to the oceans and existing observing systems;

(2) conduct periodic reviews of the observing system and make recommendations for improving it;

(3) prepare periodic reports on the status and future of the observing system;

(4) develop a plan for the establishment of an integrated observing system for the oceans.

Subtitle G—National Measurement Laboratories

SEC. 1362. 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 (22);

(2) by redesigning paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbons dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride;"

SEC. 1363. ESTABLISHMENT OF NEW MEASUREMENT TECHNOLOGIES.

The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal, State, and local governments, new standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions for which no accurate or reliable measurements, calibrations, standards, and measurement technologies (including new technologies for measuring emissions) exist.

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program and the National Institute of Standards and Technology Laboratories, shall—

(1) develop and distribute technology and methods that will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbons dioxide, methane, nitrous oxide, ozon, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and

(2) by redesigning sections 17 through 32 as sections 18 through 33, respectively; and

(3) by inserting after section 16 the following:—

"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

(a) IN GENERAL.—The Director shall establish within the Institute a program to perform research and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the development of greenhouse gas standards (as defined in section 4 of the Global Climate Change Act of 2002).

(b) RESEARCH PROGRAM.—The Institute shall conduct research and development activities to—

(1) establish the scientific basis for greenhouse gas standards;

(2) develop and maintain the National Technical Institute on Climate Change;

(3) establish a climate change laboratory at the laboratory of National Institute of Standards and Technology Laboratories.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out programs pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle H—National Climate Change Adaptation and Mitigation Act of 2003

The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional and coastal observational systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practices, but that are adapted to local and regional needs.

(2) A design, testing and employment of forecast models for ocean conditions.

(3) Data management, including data transfer protocols and archiving.

(4) Designation of coastal ocean observing regions.

(5) Consultation with the Secretary of State, representative of international agreements in relevant international organizations.

(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations.

(G) work with academic, State, and other actual and potential user organizations.

(H) contributes, to the extent practicable, to the ocean observing activities of the United States and international organizations.

(1) develops material and manufacturing technologies that will help incorporate low- or no-emission technologies into building designs.

(2) by redesigning paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbons dioxide, methane, nitrous oxide, ozon, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride;"
seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—
(A) increases in severe weather events; 
(B) sea level rise and shifts in the hydrological cycle; 
(C) natural hazards, including tsunami, drought, flood, and fire; and 
(D) alteration of ecological communities, including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act identifying and recommending implementation actions that may be taken at the national, regional, State, and local levels including at the ecosystem or watershed levels; and

(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.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and tools and technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate use of information and other technologies and products.

(f) 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. 1792. COASTAL VULNERABILITY AND ADAPTATION.

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate for such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;
(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and
(3) economic impact on local, State, and regional economies, including the impact on abundance or distribution of economically important living marine resources.

(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 regional adaptation plans that recommend targets and strategies to address coastal impacts associated with climate change, sea level rise, and other natural hazards. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan and the implementation of regional coastal adaptation plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;
(2) areas that have been identified as high risk through mapping and assessment;
(3) mitigation incentives such as rolling easement, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;
(4) land and property owner education;
(5) economic impacts for small communities dependent upon affected coastal resources, including fisheries; and
(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish 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 and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing and implementing adaptation or mitigation strategies and plans. Federal, State, and local government agencies that carry out the purposes of this section shall provide technical planning assistance.

(d) 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, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary may establish a 4-year pilot program to provide financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(f) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(1) the Secretary may take into account in-kind contributions and other noncash support of any project to determine the Federal funding share for that project;

(2) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community to be affected are insufficient to meet the non-Federal share of the project’s costs.

(g) DEFINITIONS.—Any term used in this section and not defined in this section or in the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.
one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

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 Oceanographic 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 in situ emissions of air pollutants 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, through the Administrator of the National Oceanographic and Atmospheric Administration, shall establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.

(c) In the purpose 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 studies pursuant to subsection (b) of this section, and $5,000,000 for fiscal year 2003 and such sums as may be necessary for subsequent fiscal years for the forecast and warning program pursuant to subsection (c) of this section.

SEC. 1384. DEFINITIONS.

In this subtitle—

(1) the term "Center" means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) the term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of spaceborne or airborne platform or other types of data.

(3) the term "institute of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1385. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(a) energy efficiency;

(b) renewable energy;

(c) fossil energy; and

(d) 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.

TITLe XIV: MANAGemenT OF DOA SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 1401. DEFINITIONS.

In this title:

(1) APLICIABILITY OF DEFINITIONS.—The definitions in section 1201 shall apply.

(2) SINGLE-PURPOSE RESEARCH FACILITY.—The term ‘‘single-purpose research facility’’ means any of the following primarily single purpose entities owned by the Department of Energy—

(A) Ames Laboratory;

(B) East Tennessee Technology Park;

(C) Environmental Measurement Laboratory;

(D) Fernald Environmental Management Project;

(E) Fermi National Accelerator Laboratory;

(F) Kansas City Plant;

(G) laboratory; and

(H) New Brunswick Laboratory;

(I) Pantex Weapons Facility;

(J) Princeton Plasma Physics Laboratory;

(K) Savannah River Site;

(L) Stanford Linear Accelerator Center;

(M) Thomas Jefferson National Accelerator Facility;

(N) Y-12 facility at Oak Ridge National Laboratory;

(O) Waste Isolation Pilot Plant; or

(P) other similar organization of the Department.

SEC. 1402. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department of Energy under title XII, title XIII, and title XV shall remain available until expended.

SEC. 1403. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and technology deployment activities funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.

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 scientific and technical merit of the proposals for such awards has been made by the Department of Energy.

SEC. 1405. EXTERNAL TECHNICAL REVIEW OF DEPARTMENT 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. 7132(b)) is amended to read as follows:

‘‘(b) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by 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 qualified to manage the civilian research and development programs of the Department.

‘‘(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 use 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; and

(E) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology programs as provided by the Secretary, and as other elements of the Department assigned by the Secretary.’’.
The Secretary shall authorize a Technology Infrastructure Program to be in addition to the Assistant Secretaries for Energy (2) and the Assistant Secretary of Science shall at a minimum include—

(A) the potential of the project to succeed, and
(B) the extent of participation in the project by agencies of State, tribal, or local governments.

(3) MINIMUM PARTICIPANTS.—Each project funded under this section shall meet the following requirements:

(a) T ECHNOLOGY CLUSTER.—Any participant—

(i) the potential of the project to succeed, and
(ii) will have the management, resources, and project team necessary to manage the project.

(b) C OMPETITIVE SELECTION.—Each technology project shall be in addition to the Assistant Secretaries for Energy (2) and shall be competitive selected to meet the above criteria.

(c) MINIMUM PARTICIPANTS.—Each project funded under this section shall meet the following requirements:

(i) the potential of the project to succeed, and
(ii) will have the management, resources, and project team necessary to manage the project.

(d) PROGRAM REQUIREMENTS.—Each technology project shall be in addition to the Assistant Secretaries for Energy (2) and shall meet the following requirements:

(i) the potential of the project to succeed, and
(ii) will have the management, resources, and project team necessary to manage the project.

(e) QUALIFIED FUNDING AND RESOURCES.—(I) The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, and other resources that will be used in the project.

(ii) Independent research and development expenses of Government contractors that qualify for reimbursement shall be considered to be part of the non-Federal sources to a project if the expenses meet the other requirements of this section.

(iii) No funds or other resources expended before the start of a project under this section shall be credited toward the costs paid by the non-Federal sources to a project.

(iv) Competitive Selection.—All projects in which a party other than the Department, a National Laboratory, or a single-purpose research facility manages the Technology Infrastructure Program shall be competitively selected to meet the above criteria.

(v) ACCOUNTING STANDARDS.—Any participant that receives funds under this section, other than a National Laboratory or single-purpose research facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended to read as follows:

(a) T ECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to perform oversight of and support for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Partnerships Working Group, and shall oversee the expenditure of funds allocated to the Technology Partnership Working Group.

(b) T ECHNOLOGY PARTNERSHIP WORKING GROUP.—The Secretary shall establish a Technology Partnership Working Group, which shall consist 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; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department.
CONGRESSIONAL RECORD — SENATE
S10805
July 31, 2003

SEC. 1409. SMALL BUSINESS ADVOCACY AND ASSISTANCE.
(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to appoint a small business advocate to:
(1) assess the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurements, collaborative research, technology licenses, transfer of activities conducted by the National Laboratory or single-purpose research facility;
(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurements and collaborative research along with recommendations, if appropriate, on how to improve participation;
(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;
(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and
(5) establish guidelines for the program under subsection (b) and report on the effectiveness of small business concerns; and
(b) REPORT.
(1) The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or
(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern’s products or services.
(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.

SEC. 1410. OTHER TRANSACTIONS AUTHORITY.
(a) In GENERAL.—Section 646 of the Department of Energy Carlsbad Environmental Management Act of 1996 (42 U.S.C. 7256) is amended by adding at the end the following:
"(1) OTHER TRANSACTIONS AUTHORITY.—(1) In addition to any other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other agreements for Federal purposes, 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 the purposes of this title, including the transfer of technology functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).
"(2)(A) The Secretary of Energy shall ensure that—
(i) to the maximum extent practicable, no transaction entered into under paragraph (1) provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy;

SEC. 1411. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.
(a)定义。
"SEC. 1414. 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 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 technology program to promote energy efficient, environmentally sound economic development along the United States-Mexico border—
"(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).
(b) IMPLEMENTATION.—Not later than 6 months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions.

SEC. 1412. NATIONAL ACADEMY OF SCIENCES REPORT.
Within 90 days after the date of enactment of this Act, the Secretary shall contract with the National Academy of Sciences to:
(1) conduct a study on the obstacles to accelerating the innovation cycle for energy technology, and
(2) report to the Congress recommendations for shortening the cycle of research, development, and deployment of energy technologies.
SEC. 1413. REPORT ON TECHNOLOGY READINESS AND BARRIERS TO TECHNOLOGY TRANSFER.
(a) IN GENERAL.—The Secretary, acting through the Technology Partnership Working Group and in consultation with representatives of affected industries, universities, and small business concerns, including socially and economically disadvantaged 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 X, and
(2) identify barriers to technology transfer and cooperative research and development activities between a National Laboratory and a non-Federal person; and
(b) REPORT.—The Secretary shall provide a report to Congress and the President on activities carried out under this section not later than 1 year after the date of enactment of this section, and shall update such report on a biennial basis, taking into account the barriers to technology transfer identified in previous reports under this section.

TITLE XV—PERSONNEL AND TRAINING
SEC. 1501. WORKFORCE TRENDS AND TRAINING GRANTS.
(a) WORKFORCE TRENDS.—The Secretary shall:
(1) MONITOR.—The Secretary of Energy (in this title referred to as the "Secretary"), acting through the Administrator of the Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy-efficiency, the oil and gas industry, the nuclear power industry, the coal industry, and other industrial sectors as the Secretary may deem appropriate.
(2) REPORT.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce
trends in the annual reports of the Energy Information Administration.

(3) SPECIAL REPORTS.—The Secretary shall re-
port to the appropriate committees of Congress whenever the Secretary determines that signif-
cant shortfalls of technical personnel in one or
more energy industry segments are forecast or
have occurred.

(b) TRAINEESHIP GRANTS FOR TECHNICAL-
LY SKILLED PERSONNEL.—

(1) GRANT PROGRAMS.—The Secretary shall es-
tablish a traineehip program in the appropriate of-
cices of the Department to enhance training of
technically skilled personnel for which a short-
fall is determined under subsection (a).

(2) CONDITIONS.—As determined by the Secre-
tary, a traineehip grant under paragraphs (1) or
(3), subject to the approval of the committee of
Congress appropriate to the subject.

(c) APPROPRIATIONS.—(1) IN GENERAL.—The
Secretary shall make grants under paragraph (1)
to

(A) an institution of higher education;

(B) a postsecondary educational institution
devoting vocational and technical education
(within the meaning given those terms in section
3 of the Carl D. Perkins Vocational and Tech-

(C) appropriate agencies of State, local, or
tribal governments;

(D) joint labor and management training or-
ganizations with State or federally recognized
apprenticeship programs and other industry-
base training organizations as the Secretary
considers appropriate.

(d) DEFINITIONS.—For purposes of this section,
the term ‘‘technical or scientific personnel’’ means
apprentice level workers who are enrolled in or have completed a State or fed-
ernally recognized apprenticeship program and
other skilled workers in energy technology in-
dustries.

(1) AUTHORIZATION OF APPROPRIATIONS.—
From amounts authorized under section 1241(c),
there are authorized to be appropriated to the Secre-
tary for activities under this section such sums
as may be necessary for each fiscal year.

SEC. 1502. POSTDOCTORAL AND SENIOR RE-
SEARCH FELLOWSHIPS IN ENERGY RESEARCH.

(a) POSTDOCTORAL FELLOWSHIPS.—The Secre-
tary shall carry out a program of fellowships to
encourage outstanding young scientists and
engineers to pursue postdoctoral research ap-
pointments in energy research and development
at institutions of higher education of their choice.
In establishing a program under this subsec-
tion, the Secretary may enter into appro-
piate arrangements with the National Academy of Sciences to administer the program.

(b) DISTINGUISHED SENIOR RESEARCH FEL-
LOWSHIPS.—The Secretary shall establish a program of fellowships for outstanding senior
researchers in energy research and development
and their research groups to explore research
and development topics of their choosing for a
fixed period of time. Awards under this program
shall be made on the basis of past scientific or
technical accomplishment and promise for con-
tinued accomplishment during the period of sup-
port, which shall not be less than 3 years.

(c) AUTHORIZATION OF APPROPRIATIONS.—
From amounts authorized under section 1241(c),
there are authorized to be appropriated to the Secre-
tary 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) MODEL GUIDELINES.—The Secretary shall,
shortly after the publication of this Act, cooperate with self-regulating industry
organizations to develop training guidelines
to support electric supply generation, trans-
mission, and distribution activities and recog-
nized representatives of employers, employees,
deploying training guidelines to identify
the extent to which training guidelines can
increase the participation of historically Black colleges or universities, Hispanic-serving institu-
tions, or tribal colleges in activities that increase the capacity of the historically Black colleges or
universities, Hispanic-serving institutions, or
tribal colleges to train personnel in science or
engineering.

(2) ACTIVITIES.—An activity under para-
graph (1) may include—

(A) a collaborative research;

(B) a transfer of equipment;

(C) training of personnel at a National Lab-
oratory or science facility;

(D) training of personnel by personnel at a
National Laboratory or science facility.

(c) REPORT.—Not later than 2 years after the
date of enactment of this section, the Secre-
tary shall submit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the activities carried out under this section.

SEC. 1506. NATIONAL POWER PLANT OPERATIONS
TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall es-
tablish a National Power Plant Operations
Technology and Education Center (the ‘‘Cen-
ter’’), to address the need for training and ed-
crating certified operators for electric power gener-
plant.

(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
activities that are designed to encourage
Internet-based information technologies that
allow for learning at remote sites.

(c) CRITERIA FOR COMPETITIVE SELECTION.—
The Secretary shall establish the Center at an
institutions of higher education with expertise
in plant technology and operation that can
provide on-site as well as Internet-based train-
ing.

SEC. 1507. FEDERAL MINE INSPECTORS.

In light of the recognized need for Federal mine inspectors and the need for additional per-
sion personnel, the Secretary of Labor shall hire, train,
ploy such additional skilled mine inspec-
tors and deploy them at the request of the Secre-
tary.

DIVISION F—TECHNOLOGY ASSESSMENT
AND STUDIES

TITLE XVI—TECHNOLOGY ASSESSMENT
SEC. 1601. NATIONAL SCIENCE AND TECHNOLOGY
Policy, Organization, and Priorities Act of 1976
The National Science and Technology Policy,
Organization, and Priorities Act of 1976 (42
U.S.C. 6001 et seq.) is amended by adding at the
end the following:

TITLES VII—TECHNOLOGY ASSESSMENT AND
SEC. 701. ESTABLISHMENT.

There is hereby created a Science and Technol-
ogy Assessment Service (hereinafter referred to as the ‘‘Service’’), which shall be within and
responsible to the legislative branch of the Govern-
ment.

SEC. 702. COMPOSITION.

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 hire, train, and deploy such additional skilled
inspectors and deploy such additional skilled
inspectors to provide advice to the Service.

SEC. 703. FUNCTIONS AND DUTIES.

The Service shall coordinate and develop in-
frastructure 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 Con-
gress, the Service shall work with the extent to which
the Service can increase the participation of historically Black colleges or universities, Hispanic-serving institu-
tions, or tribal colleges in activities that increase the capacity of the historically Black colleges or
universities, Hispanic-serving institutions, or
tribal colleges to train personnel in science or
engineering.
SEC. 708. REPORT TO CONGRESS.

Not later than 18 months after the date of enactment of this section, and every 5 years thereafter, the Director shall report to Congress on the matters described in paragraphs (1) through (3), including the findings, conclusions, and recommendations derived from the assessment conducted under subsection (a).

(a) ASSESSMENT.—The Secretary of Energy shall contract for a study of the feasibility of building and operating a new electromagnetic transmission system on the Amtrak right-of-way in the Northeast Corridor.

(b) SCOPE OF THE STUDY.—The study shall cover: (1) alternative geographic configurations of the new electromagnetic transmission system on the Amtrak right-of-way; (2) alternative technologies for the system; (3) the economic risks and benefits of building and operating each alternative as compared to the current system; (4) the environmental risks and benefits of building and operating the new electromagnetic transmission system on the Amtrak right-of-way in the Northeast Corridor; and (5) the extent to which each alternative would enhance the reliability of the electric transmission grid and enhance competition in the sale of electric energy at wholesale within the Northeast Corridor.

(c) CONTENTS OF THE REPORT.—The study shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than 270 days after the date of enactment of this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ‘Amtrak’ means the National Railroad Passenger Corporation established under chapter 243 of title 49, United States Code; and

(2) the term ‘ Northeast Corridor’ shall have the meaning given such term under section 24102(7) of title 49, United States Code.
SEC. 1704. UPDATING OF INSULAR AREA RENEWABLE ENERGY AND ENERGY EFFICIENCY PLANS.

Section 604 of P.L. 94-597 (48 U.S.C. 1492) is amended—

(a) by striking "administrative actions, and voluntary actions by industry and consumers to protect consumers and small businesses from future price spikes in consumer energy products.";

(b) by striking clause (c) which requires the Federal Energy Regulatory Commission, the Department of Energy, and other Federal and State agencies to provide recommendations regarding the matters studied; and

(c) by striking clause (c) which requires the National Academy of Sciences to establish an Advisory Committee to carry out the study under subsection (a), and to submit its findings and recommendations on the 1982 Territorial Energy Assessment procedures to the Secretary of Energy by December 31, 2002.

SEC. 1705. NATURAL RESOURCES CONSERVATION, ENERGY USE, AND WATER USE.

The President shall instruct the Secretary of the Interior to conduct a comprehensive study on energy use, water use, and water conservation in the Great Basin.

(a) REPORT.—The Secretary shall submit to Congress a report on the study.

(b) APPROPRIATIONS.—In accordance with the report submitted under subsection (a), the Secretary shall request funds for the implementation of measures and estimates of cost and resource savings, not later than 30 days after the date of enactment of this Act.

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

SEC. 1706. REPORT ON ENERGY SAVINGS AND CONSERVATION.

The Secretary shall submit to Congress a report on the status of the Nation's energy conservation and efficiency and strategies and programs for implementing energy conservation and efficiency policies.

(a) REPORT.—The Secretary shall submit to Congress a report on the status of the Nation's energy conservation and efficiency policies.

(b) APPROPRIATIONS.—In accordance with the report submitted under subsection (a), the Secretary shall request funds for the implementation of measures and estimates of cost and resource savings, not later than 30 days after the date of enactment of this Act.

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

SEC. 1707. NATIONAL ACADEMY OF SCIENCES STUDY ON RADIATION GUIDELINES FOR SELECTION AND ASSESSMENT OF CERTAIN ROUTES FOR SHIPMENT OF SPENT NUCLEAR FUEL FROM RESEARCH NUCLEAR REACTORS.

(a) IN GENERAL.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study of the procedures by which the Department of Energy, together with the Department of Transportation and the Nuclear Regulatory Commission, selects routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department of Energy facilities.

(b) APPROPRIATIONS.—In accordance with the report submitted under subsection (a), the Secretary shall request funds for the implementation of measures and estimates of cost and resource savings, not later than 30 days after the date of enactment of this Act.

SEC. 1708. REPORT ON ENERGY SAVINGS AND CONSERVATION.

The Secretary shall submit to Congress a report on the status of the Nation's energy conservation and efficiency policies.

(a) REPORT.—The Secretary shall submit to Congress a report on the status of the Nation's energy conservation and efficiency policies.

(b) APPROPRIATIONS.—In accordance with the report submitted under subsection (a), the Secretary shall request funds for the implementation of measures and estimates of cost and resource savings, not later than 30 days after the date of enactment of this Act.

(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.

The Secretary shall submit to Congress a report on the status of the Nation's research on hydrogen.

SEC. 1710. REPORT ON RESEARCH ON HYDROGEN.

The Secretary shall submit to Congress a report on the status of the Nation's research on hydrogen.

SEC. 1711. REPORT ON RESEARCH ON HYDROGEN.

The Secretary shall submit to Congress a report on the status of the Nation's research on hydrogen.

DIVISION G—ENERGY INFRASTRUCTURE SECURITY

TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE SECURITY

Subtitle A—Department of Energy Programs

SEC. 1801. DEFINITIONS.

In this title:

(1) CRITICAL ENERGY INFRASTRUCTURE—

extent, the procedures analyzed for purposes of that subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risk associated with the movement of nuclear fuel from research 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 make such recommendations regarding the matters studied as the National Academy of Sciences considers appropriate.

(7) DEADLINE FOR DISPERAL OF FUNDS FOR STUDY.—The Secretary shall disburse the National Academy of Sciences the funds for the cost of the study required by subsection (a) not later than 30 days after the date of enactment of this Act.

(8) REPORT ON RESULTS OF STUDY.—Not later than 180 days after the date of the disbursement of the 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 (a), including any recommendations required by subsection (d).

(9) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate;

(2) the Committee on Energy and Commerce of the House of Representatives.

SEC. 1802. DELEGATION OF AUTHORITY.

The President may delegate the authority provided for in this title to another agency or person of the Federal Government.

SEC. 1803. PREVAILING RATE OF PAY.

The President may, after notice and opportunity for public hearing, determine a prevailing rate of pay for workers employed by contractors engaged in the performance of the provisions of this title.

SEC. 1804. PRO HOMO.

The President may, after notice and opportunity for public hearing, determine that a provision of this title is not applicable to any person or entity.

SEC. 1805. IMMUNITY.—
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 petroleum product—

the incapacity or destruction of which would

have a debilitating impact on the defense or econo-

mic security of the United States.

B) EXCLUSION.—The term shall not include a facility that is licensed by the Nuclear Regu-

latory Commission under section 103 or 104(b) of

the Atomic Energy Act of 1946 (42 U.S.C. 2133 and 2134(b)).

(2) DEPARTMENT; NATIONAL LABORATORY; SEC-

RETARY.—The term “Department”, “National Labor-

atory”, and “Secretary” have the mean-

ings given such terms in section 1203.

SEC. 1802. ROLE OF THE DEPARTMENT OF EN-

ERGY.

Section 102 of the Department of Energy Or-

ganization Act (42 U.S.C. 7112) is amended by

adding at the end the following:

“(20) The Department shall establish and

maintain, and shall cooperate with States, in-

dustry, and other interested parties; and

(E) education and public outreach activi-

ties.”.

SEC. 1803. CRITICAL ENERGY INFRASTRUCTURE

Program.

(a) PROGRAMS.—In addition to the authorities otherwise provided by law (including section

1261), the Secretary is authorized to establish

programs of financial, technical, or administra-

tive assistance to—

(1) enhance the security of critical energy in-

frastructure in the United States;

(2) develop and disseminate, in cooperation with industry, best practices for critical energy infra-

structure assurance; and

(3) protect against, mitigate the effect of, and improve the ability to recover from disruptive in-

cidents affecting critical energy infrastructure.

(b) REQUIREMENTS.—A program established

under this section shall—

(A) be consistent with the advice of a com-

mittee established under section 1804;

(B) be available to the scientific and tech-

nical resources of the Department, including re-

source pool of the National Laboratory; and

(C) be consistent with any overall Federal plan for national infrastructure developed by the President or his designee.

SEC. 1804. ADVISORY COMMITTEE ON ENERGY IN-

FRASECURITY.

(a) ESTABLISHMENT.—The Secretary shall es-

tablish an advisory committee, or utilize an ex-

isting advisory committee within the Depart-

ment, to advise the Secretary on policies and

programs related to the security of United States energy infrastructure.

(b) LANCES. OF MEMBERSHIP.—The Secretary shall ensure that the advisory committee estab-

lished or utilized under subsection (a) has a membership with an appropriate balance among the various interests related to energy infra-

structure security, including—

(1) scientific and technical experts;

(2) industrial managers;

(3) representatives of energy commerce, and

(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 com-

mittee 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 in connection with attendance at meetings 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 standard-setting organizations, or similar organi-

zations, 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 “ap-

proved 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 def-

ined in section 23(c) of the Submerged Lands

Act (43 U.S.C. 1303(c)).

(3) CRITICAL OCS ENERGY INFRASTRUCTURE FA-

CILITY.—The term “OCS critical energy infra-

structure facility” means—

(A) a facility located in an OCS Production State or the waters of such State related to the production of oil or gas on the Outer Con-

tinental Shelf; or

(B) a critical energy infrastructure facility located in an OCS Production State or in the waters of such State that carries out a public service, transportation, or infrastructure activity critical to the operation of an Outer Continental Shelf energy infra-

structure facility, as determined by the Secre-

tary.

(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 re-

sources; and

(ii) consists of a block, a portion of a block, a combination of blocks or portions of blocks, or a combination of one lease, as

(1) specified in the lease; and

(2) depicted on an outer Continental Shelf off-

shore production map (as defined in section 304(1) of the Coastal Zone Man-

agement Act of 1972 (16 U.S.C. 1453(1))).

(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, un-

less the lease was in production on that date.

(C) OCS POLITICAL SUBDIVISION.—The term “OCS political subdivision” means a county, parish, borough, county, or other political subdivision of an OCS Production State all or part of which subdivision lies within the coastal zone (as de-

fined in section 304(1) of the Coastal Zone Man-

agement 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 mean-

ings given in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(9) PROGRAM.—The term “program” means the Outer Continental Shelf Energy Infra-

structure Security Program established under subsec-

tion (b).

(10) QUALIFIED OUTER CONTINENTAL SHELF

REVENUES.—The term “qualified Outer Con-

tinental Shelf revenues” means all amounts re-

ceived by the United States from each leased or partially leased portfolio of a lease 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 which section 8(g) or any other law do not apply, the ge-

ographic center of which lies within a distance of

200 miles from any part of the coastline of any State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and re-

lated late payment interest. Such term does not include any revenues from a leased tract or por-

tion thereof that is within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of

January 1, 2001, unless the lease was issued for 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).

(13) ESTABLISHMENT.—The Secretary shall estab-

lish a program, to be known as the Outer Con-

tinental Shelf Energy Infrastructure Secu-

rity Program”, under which the Secretary shall provide funds to OCS Production States to im-

plement approved State plans to provide secu-

rity against hostile and natural threats to crit-

ical OCS energy infrastructure facilities and support of any necessary public service or trans-

portation activities that are needed to maintain the safety and operation of critical energy infra-

structure activities. For purposes of this pro-

gram, restoration of any coastal wetland shall be deemed to be an activity that secures crit-

ical OCS energy infrastructure facilities from a

natural threat.

(13) STATE PLAN.—(1) INITIAL PLAN.—Not later than 180 days after the date of enactment of this Act, to be eli-

gible to receive funds under the program, the Secretary shall submit to the Secretary a plan to provide security against hostile and natural threats to critical energy infrastructure facilities in the OCS Pro-

duction State and to support any of the nec-

essary public service or transportation activities that are needed to maintain the safety and op-

eration of critical energy infrastructure facil-

ities. Such plan shall include—

(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;

(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used; and

(C) a contact for each OCS political subdivi-

sion and description of how such political subdivi-

sions will be used amounts provided under this section, including a certification by the Gov-

ernor that such uses are consistent with the re-

quirements of this section; and

(D) measures for each State to account other relevant Federal resources and programs.

(2) ANNUAL REVIEWS.—Not later than 1 year after the date of submission of the plan and an-

nually thereafter, the Governor of an OCS Pro-

duction State shall—

(A) review the approved State plan; and

(B) submit to the Secretary any revised State plan resulting from the review.

(3) APPROVAL OF PLANS.—(A) IN GENERAL.—In consultation with appro-

priate Federal security officials and the Secre-

taries of Commerce and Energy, the Secretary shall—

(i) approve each State plan; or

(ii) recommend changes to the State plan.

(B) RESUBMISSION OF STATE PLANS.—If the Secretary recommends changes to a State plan under paragraph (A) of this section, the Governor of the OCS Production State may resubmit a revised State plan to the Secretary for approval.
S10810

CONGRESSIONAL RECORD — SENATE

July 31, 2003

(4) AVAILABILITY OF PLANS.—The Secretary shall provide to Congress a copy of each approved State plan.

(5) CONSULTATION AND PUBLIC COMMENT.—(A) 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, industry, Indian tribes, the scientific community, and other persons as appropriate.

(B) PUBLIC COMMENT.—The Governor of an OCS Political Subdivision shall solicit public comments on the State plan to the extent that the Governor determines to be appropriate.

(6) ALLOCATION OF AMOUNTS BY THE SECRETARY.—(A) In general.—The amounts made available for the purposes of carrying out the program provided for by this section among OCS Production States shall be divided equally among all OCS Production States.

(B) Expenditure of amounts.—The amounts allocated to an OCS Production State or shall provide to Congress a copy of each approved State plan shall be divided equally among OCS Production States.

(7) Amounts allocated to OCS Production States or shall provide to Congress a copy of each approved State plan shall be divided equally among OCS Production States within 200 miles of a leased tract, the amount of OCS Production States for the prior 5-year period. Where OCS revenues generated off the coastline of all OCS Production States under paragraph (d)(2) shall be divided equally among OCS Production States.

(8) Seventy-five percent of the amounts 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.

(9) 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 coastlines of all OCS Production States for the prior 5-year period. Where there is more than one OCS Production State within the area where the lease was issued prior to the establishment of OCS political subdivisions by the Secretary based on subsection (b), the amount of OCS Production State shall be determined by the Secretary in a manner consistent with this subparagraph.

(10) 50 percent shall be allocated based on the ratio of qualified OCS revenues generated off the coastline of each OCS Production State to the qualified OCS revenues generated off the coastlines of all OCS Production States.

(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 other OCS Production States for the prior 5-year period. Where the Secretary may waive the provisions of this paragraph and hold an OCS Production State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Plan.

(h) USE OF AMOUNTS ALLOCATED BY THE SECRETARY.—(1) In general.—Amounts allocated by the Secretary under subsection (d) may be used in accordance with a plan approved pursuant to subsection (a) for the following uses:

(A) activities to secure critical OCS energy infrastructure facilities from human or natural threats;

(B) support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical OCS energy infrastructure facilities;

(C) restoration of coastal wetlands.—For the purpose of subparagraph (1)(A), restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities.

(D) Failure to have use.—Any amount allocated to an OCS political subdivision but not disbursed because of a failure to have a qualifying Plan shall be held in escrow such amount until the final resolution of any appeal regarding the disapproval of a Plan.

(ii) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by an OCS Production State or OCS political subdivision is not consistent with the uses authorized in subsection (h), 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 the inconsistent expenditure have been repaid or obligated for authorized uses.

(k) RULEMAKING.—The Secretary may promulgate such rules and regulations as may be necessary to carry out the provisions of this section, including rules and regulations setting forth an appropriate process for appeals.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated $450,000,000 for each of the fiscal years 2003 through 2008 to carry out the purposes of this section.

DIVISION H—ENERGY TAX INCENTIVES

SEC. 1906. SHORT TITLE, ETC.

(a) SHORT TITLE.—This division may be cited as the "Energy Tax Incentives Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, wherever in this division an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be to a section or other provision of the Internal Revenue Code of 1986.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

SEC. 1901. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45 of chapter 1 of subtitle A, as amended by section 630(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) 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. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACEMENT IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(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—

"(II) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002; and"

(2) by adding at the end the following new subparagraph:

"(D) BIOMASS FACILITY.—"(i) In general.—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, 2003; and"

(b) SPECIAL RULE FOR POSTEFFECTIVE 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)(i).

(c) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before 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)(ii).

(d) 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 person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.

(e) DEFINITION OF BIOMASS.—(1) IN GENERAL.—Section 45(c)(1)(D) (defining qualified energy resources) is amended—

(A) by striking "biomass" and before the end of subparagraph (B) adding "(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002; and"

(B) by striking the paragraph at the end of subparagraphe (C) and inserting "and", and"

(C) by adding at the end the following new subparagraph:

"(D) biomass (other than closed-loop biomass);"

(f) USES AUTHORIZED.—Section 45(c) (relating to qualified energy resources) is amended—

(1) by striking "biomass" and adding "using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

"(II) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002; and"

(2) by adding at the end the following new subparagraph:

"(D) biomass (other than closed-loop biomass)";

(g) RETARDED IN-SERVICE RULES.—In the case of any facility described in clause (i), if the Secretary determines that there will be a delay in the in-service date of such facility of at least 1 year after the date of the enactment of this Act, the 3-year period beginning on the date the facility will become eligible for the credit shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

(h) USES AUTHORIZED.—Section 45(c) (relating to qualified energy resources) is amended—

(1) In general.—Subparagraphs (A) and (C) of section 45 of chapter 1 of subtitle A, as amended by section 630(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking "January 1, 2004" and inserting "January 1, 2006".

(2) 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.
(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 shall be extended by the number of years during the 5-year period in subsection (a)(2)(A)(ii).

(d) Effective date.—The amendments made by this section shall apply to electric energy 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 of the following new paragraph:

(2) Treatment of persons not able to use entire credit.—

(A) Allowance of credit.—

(i) in general.—Any credit allowable under subsection (a) shall be treated as arising from the exercise of an essential government function.

(ii) Persons described.—A person is described in this clause if the person

(B) Transfer of credit.

(i) Assignment.—Any transfer of any credit to any person described in subparagraph (A) may transfer any credit to any other person not described in such subparagraph.

(ii) Taxpayer’s consent.—A transfer may be revoked only with the consent of the Secretary.

(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. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(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 adding the following new paragraph:

(5) by striking ‘‘TAX-EXEMPT BONDS,ʼʼ in the heading and inserting ‘‘CERTAIN’’.

(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 BIODILS 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 adding the following new paragraph:

(E) Municipal biosolids, and

(f) geothermal energy, and

(G) solar energy.

(i) In general.—A person described in subparagraph (A)(iii) may transfer any credit to any person (other than a related person) not described in subparagraph (A)(ii).

(ii) Taxpayer’s consent.—A transfer may be revoked only with the consent of the Secretary.

(f) Regulations. —The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

(iii) Transfer proceeds treated as arising from essential government function.—Any proceeds derived by a person described in subparagraph (A)(iii) shall be treated as arising from the exercise of an essential government function.

(ii) 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 subparagraph (A)(ii), any credit to which subparagraph (A)(i) 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 chapter 21 of title 7 of the United States Code (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Title 203 Act of 2003.

(iii) Credit not income.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(ii) applies shall not be treated as income for purposes of section 50(i)(12).

(E) Treatment of unrelated persons.—For purposes of subsection (a)(2)(B), sales of electricity to unrelated persons shall be treated as sales between unrelated parties.

(F) Credits not reduced by tax-exempt bonds or certain other subides.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (iii).

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(3) by inserting after such clause—

(a) other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003, between unrelated parties.

(b) any facility owned by the taxpayer which is originally placed in service after December 31, 2001, before January 1, 2007.

SEC. 1907. CREDIT FOR ELECTRICITY PRODUCED FROM WINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) Expansion of qualified energy resources.—

(1) 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 (D), by adding the following new paragraph:

(2) The heading for subsection (d) of section 45 is amended by inserting ‘‘AND SPECIAL RULES’’ before ‘‘DEFINITIONS’’.

(3) The heading for subsection (d) of section 45 is amended by inserting ‘‘ADDITIONAL’’ before ‘‘DEFINITIONS’’.

(e) Effective dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to property sold after the date of the enactment of this Act.

(2) Certain biomass facilities.—With respect to any facility described in section 45(c)(3)(D) 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, 2002.
(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 a taxpayer which is originally placed in service before January 1, 2007.
(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (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 subparagraph.

(c) MUNICIPAL BIO SOLIDS.—The term ‘municipal biosolids’ means the residue or solids removed by a municipal wastewater treatment facility.

(2) RECYCLED SLUDGE.—
(a) IN GENERAL.—The term ‘recycled sludge’ means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.
(b) IN GENERAL.—The term ‘recycled’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.

(d) EFFECTIVE DATE.—The amendments made by this paragraph 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 AND FUEL INCENTIVES

SEC. 301. ALTERNATIVE MOTOR VEHICLE CREDIT.
(a) IN GENERAL.—Subpart B of part IV of subchapter C of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

SEC. 305. ALTERNATIVE MOTOR VEHICLE CREDIT.
(a) ALLOWANCE 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—

(I) the new qualified fuel cell motor vehicle credit determined under subsection (b),
(II) the new qualified hybrid motor vehicle credit determined under subsection (c), and
(III) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—
(I) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this section with respect to a new qualified fuel cell 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>Vehicle Inertia Weight Class</th>
<th>Maximum Available Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 to 7,000 lbs</td>
<td>$1,000</td>
</tr>
<tr>
<td>7,000 to 14,000 lbs</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over 14,000 lbs</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

The term ‘vehicle inertia weight’ means the vehicle weight as defined in regulations prescribed by the Secretary of the Treasury.

(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—
(I) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this section 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>Vehicle Inertia Weight Class</th>
<th>Maximum Available Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 to 7,000 lbs</td>
<td>$1,000</td>
</tr>
<tr>
<td>7,000 to 14,000 lbs</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over 14,000 lbs</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

The new qualified hybrid motor vehicle credit is the amount equal to—

(i) if such vehicle has a gross vehicle weight rating of more than 14,000 pounds:

<table>
<thead>
<tr>
<th>Weight Rating</th>
<th>Maximum Available Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 to 7,000 lbs</td>
<td>$1,000</td>
</tr>
<tr>
<td>7,000 to 14,000 lbs</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over 14,000 lbs</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

(ii) if such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

<table>
<thead>
<tr>
<th>Weight Rating</th>
<th>Maximum Available Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 to 7,000 lbs</td>
<td>$1,000</td>
</tr>
<tr>
<td>7,000 to 14,000 lbs</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over 14,000 lbs</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

(ii) if such vehicle has a gross vehicle weight rating of more than 14,000 pounds:

<table>
<thead>
<tr>
<th>Weight Rating</th>
<th>Maximum Available Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 to 7,000 lbs</td>
<td>$1,000</td>
</tr>
<tr>
<td>7,000 to 14,000 lbs</td>
<td>$2,000</td>
</tr>
<tr>
<td>Over 14,000 lbs</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

(d) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.
(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,
(V) $2,500, 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 250 percent of the 2000 model year city fuel economy.

(ii) 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 sub-
section (b)(2)(B) with respect to such vehicle.

(C) INCREASE FOR ACCCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A) shall be increased by the applicable heavy duty hybrid motor vehicle shall be in-
creased by the increased credit amount deter-
mined in accordance with the following tables:

(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

<table>
<thead>
<tr>
<th>The increased credit amount is:</th>
<th>2002</th>
<th>$3,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>$3,000</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>$2,500</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>$1,500</td>
<td></td>
</tr>
</tbody>
</table>

(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

<table>
<thead>
<tr>
<th>The increased credit amount is:</th>
<th>2002</th>
<th>$9,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>$7,750</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>$6,500</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>$5,250</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>$4,000</td>
<td></td>
</tr>
</tbody>
</table>

(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

<table>
<thead>
<tr>
<th>The increased credit amount is:</th>
<th>2002</th>
<th>$14,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>$12,000</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>$10,000</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>$8,000</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>$6,000</td>
<td></td>
</tr>
</tbody>
</table>

(D) DEFINITIONS.—

(I) 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 has an internal combustion or heat engine which is certified as meeting the 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, or for 2008 and later model year Otto cycle heavy duty engines, as applicable.

(II) Hybrid Motor Vehicle.—For purposes of this paragraph, the term ‘hybrid vehicle’ means any motor vehicle described in subpar-
grah (A)(iii), with respect to an applicable heavy duty hybrid motor vehicle, such maximum power and the SAE net power of the heat engine.

(III) Heavy Duty Hybrid Motor Vehicle.—For purposes of subparagraph (A)(iii), the term ‘heavy duty hybrid motor vehicle’ means a motor vehicle of the same model and make and model year vehicle, to the extent such amount does not exceed—

(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,
(B) $8,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,
(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.

(IV) Qualified Alternative Fuel Motor Vehicle Defined.—For purposes of this subsection—

(A) IN GENERAL.—The term ‘qualified alternative fuel motor vehicle’ means any motor vehi-
cle which meets or exceeds the applicable percentage of the incremental cost of such storage system.

(B) New Qualified Hybrid Motor Vehicle.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(1) which draws propulsion energy from on-board sources of stored energy which are both—

(i) an internal combustion or heat engine using combustible fuel, and

(ii) a rechargeable energy storage system.

(2) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the term ‘2000 model year city fuel economy’ means the city fuel economy of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds.

(3) New Qualified Hybrid Motor Vehicle.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(A) which draws propulsion energy from on-board sources of stored energy which are both—

(i) an internal combustion or heat engine using combustible fuel, and

(ii) a rechargeable energy storage system.

(4) New Qualified Hybrid Motor Vehicle Defined.—For purposes of this subsection—

(A) IN GENERAL.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(i) which is certified as meeting the same requirements as vehicles which may be sold or leased in California and meet or exceed the Bin 5 Tier II emission level established under this subsection as an amount equal to—

(1) the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year,

(2) the applicable percentage with respect to an applicable heavy duty hybrid motor vehicle, or

(3) the applicable percentage with respect to a qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

(B) 30 PERCENT, IF SUCH VEHICLE MEETS OR MEETS A RECHARGEABLE ENERGY STORAGE SYSTEM.—The term ‘rechargeable energy storage system’ means a power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the peak traction power of the vehicle.

(2) For purposes of paragraph (A)(ii), the term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehi-
cle, except that the peak traction power is the peak power available from the rechargeable energy storage system by which the vehicle can be driven, the total traction power is the peak power of such storage system.

(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(A) which draws propulsion energy from on-board sources of stored energy which are both—

(i) an internal combustion or heat engine using combustible fuel, and

(ii) a rechargeable energy storage system.

(4) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(A) CONSUMABLE FUEL.—The term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

(B) MOTOR VEHICLE.—The term ‘motor vehi-
cle’ has the meaning given such term by section 30(c)(2).
(3) City fuel economy.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with paragraph (e) for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(4) Terms.—For purposes of this section, the terms ‘automobile’, ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms 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.).

(5) Basis.—For purposes of this subsection, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

(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 cost, and

(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)) for such vehicle for the taxable year.

(7) Property used by tax-exempt entities.—No credit is allowable under subsection (a) with respect to a motor vehicle which is acquired by an entity exempt from tax under section 501(c)(3) of the Internal Revenue Code, section 509(a)(1), or section 509(a)(2) of such Code, if such entity is not a tax-exempt electric vehicle manufacturer, as defined in section 30(b)(2)(C)(i), with respect to any property purchased after December 31, 2011.

(8) Recapture.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowed under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period 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 purchased after December 31, 2011, by an entity, whether a tax-exempt electric vehicle manufacturer as defined in section 30(b)(2)(C)(i) or otherwise, if such property is acquired after December 31, 2011, by such entity outside the United States.

(10) Special rules.—The amendments made by this section shall apply to any property purchased after December 31, 2011, by an entity, whether a tax-exempt electric vehicle manufacturer as defined in section 30(b)(2)(C)(i) or otherwise, if such property is acquired after December 31, 2011, by such entity outside the United States.

(11) Carryback and carryforward allowed.—

(A) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of such credit allowed (determined without regard to subsection (e)) for such taxable year, such excess shall be allowed as a credit carryback for each of the 20 taxable years which succeed the unexpired credit.

(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and 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 such standards.

(13) Applicability of 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 (B) the motor vehicle safety provisions of sections 508 and 5091 through 5091 of title 49, United States Code.

(14) Regulations.—(1) In general.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

(15) Coordination 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.

(16) Termination.—This section shall not apply to any property purchased after—

(A) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

(B) in the case of any other property, December 31, 2006.

(17) Conforming amendments.—

(A) Section 53(d)(1)(B)(iii) is amended by striking “30(b)(3)” and inserting “30(b)(2)”.

(B) Qualified battery electric vehicle.—(1) In general.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

“(A) which is—

“(i) operated solely by use of a battery or battery pack, or

“(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,

(2) Leased vehicles.—Section 30(c)(1)(C) is amended by inserting “or lease” after “use”.

(3) Conforming amendments.—(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting “battery” after “qualified” each place it appears.

(B) The heading of subsection (a) of section 30 is amended by inserting “BATTERY” after “QUALIFIED”.

(4) The heading of section 30 is amended by inserting “BATTERY” after “QUALIFIED”.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting “battery” after “qualified”.

(E) Section 179A(c)(3) is amended by inserting “battery” before “electric”.

(5) Additional special rules.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraph:

“(c) The amount of any credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

(6) Property used by tax-exempt entities.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under section 501(c)(3) of the Internal Revenue Code under section 509(a)(1), or section 509(a)(2) of such Code, the person which 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 the time of any sale or lease and the specific amount of any credit otherwise allowable to the entity under this section.

(7) Carryback and carryforward allowed.—

(A) In general.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of such credit allowed (determined without regard to subsection (e)) for such taxable year, such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, in taxable years ending after such date.

(8) 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 30(a) (relating to allowable credit) is amended by striking “10 percent of”.

(2) Limitation of credit according to type of vehicle.—Section 30(b) (relating to limitations) is amended by striking paragraphs (1) and (2) and inserting the following new paragraph:

“(1) Limitation 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) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of enactment of the Energy Tax Incentives Act of 2003, the lesser of—

“(i) 10 percent of the manufacturer’s suggested retail price of the vehicle, or

“(ii) $15,000.

“(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

“(i) $3,500, or

“(ii) $6,000, if such vehicle is—

“(I) capable of electric operation for at least 100 miles on a single charge of the vehicle’s rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix II to part 5 of title 49, Code of Federal Regulations, or

“(II) 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 8,500 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, and

“(F) the period at the end of paragraph (2) and in section (e) for such taxable year (in this paragraph and section (e) referred to as the ‘unexpired credit year’), such excess shall be allowed as a credit carryback for each of the 20 taxable years which succeed the unexpired credit year.

(2) 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 (b)(2) for such taxable year (in this paragraph and section (e) referred to as the ‘unexpired credit year’), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unexpired credit year and as a credit carryforward for each of the 20 taxable years which succeed the unexpired credit year.

(B) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and carryforward under this paragraph.

(3) 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. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) Credit allowed.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the cost of such property taken into account for purposes of the provisions of section 179A(d) (defining qualified clean-fuel vehicle refueling property) and (b) limitation.—The credit allowed under subsection (a)—

(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

(c) 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.

(d) Definitions.—For purposes of this section—

(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘qualified clean-fuel vehicle refueling property’ means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘residential clean-fuel vehicle refueling property’ means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term ‘retail clean-fuel vehicle refueling property’ means qualified clean-fuel vehicle refueling property which is placed in service in a business or trade by the taxpayer.

(e) Application with other credits.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subparts D of part IV of subchapter A of chapter 1 (relating to business related credits) and 27, 29, 30, and 30B, over

(2) the tentative minimum tax for the taxable year.

(f) Basis reduction.—For purposes of this title, the basis of any property shall be reduced by the amount of such property taken into account under subsection (a).

(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).

(h) Refueling 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 this chapter, the person which installs such refueling property for the entity shall treat the taxpayer with respect to such refueling property as the person (and such refueling property as property) for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

(i) Carryforward allowed.—

(1) 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 year’) in this subsection), such excess shall be treated as a credit carryforward 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 carryforward under paragraph (1).

(3) Special Rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

(k) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the purposes of this section.

(l) 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, 2006.

(b) Incentive for production of hydrogen at qualified clean-fuel vehicle refueling property.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

‘‘In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting ‘production, storage, or dispensing’ for storage or dispersing’’.

(c) Conforming Amendments.—

(1) Section 101(a), as amended by this Act, is amended by adding at the end the following new sentence:

‘‘(i) CARRYFORWARD ALLOWED.’’

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ‘‘30(e),’’ after ‘‘30(b),’’

(3) The table of sections for subpart B of part IV of subchapter A of chapter 13, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

‘‘Sec. 30C. Clean-fuel vehicle refueling property.’’

(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. 30A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after the item:

‘‘(d) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT.—(1) A LLOCATION OF CREDIT TO PATRONS OF A COOPERATIVE.—Section 38(g) (relating to credit to cooperatives) is amended by striking at the end the following new flush sentence:

‘‘(3) The amount of the credit apportioned to the patron shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Taxable amount ending in</th>
<th>2002 cents</th>
<th>2003 cents</th>
<th>2004 cents</th>
<th>2005 cents</th>
<th>2006 cents</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-2005</td>
<td>50 cents</td>
<td>40 cents</td>
<td>35 cents</td>
<td>30 cents</td>
<td>25 cents</td>
<td>20 cents</td>
</tr>
<tr>
<td>2006-2008</td>
<td>50 cents</td>
<td>40 cents</td>
<td>35 cents</td>
<td>30 cents</td>
<td>25 cents</td>
<td>20 cents</td>
</tr>
<tr>
<td>2007-2008</td>
<td>50 cents</td>
<td>40 cents</td>
<td>35 cents</td>
<td>30 cents</td>
<td>25 cents</td>
<td>20 cents</td>
</tr>
</tbody>
</table>

(2) ALTERNATIVE FUEL.—The term ‘‘alternative fuel’’ means compressed 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, the amount (determined by the Secretary) of such fuel having a BTU content of 5,895,000 BTUs.

(4) QUALIFIED MOTOR VEHICLE.—The term ‘‘qualified motor vehicle’’ means any motor vehicle (as defined in section 30(c)(2)) 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.—‘‘Sold at retail’’ means the sale, for a purpose other than resale, after manufacture, production, or importation

(6) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30(d)(1)) 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.

(7) 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 subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

(8) 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 52 shall apply.

(9) Termination.—This section shall not apply to any fuel sold at retail after December 31, 2006.

(b) Credit Treated as Business Credit.—

(10) The credit treated as a business credit shall be treated as a trade or business expense.

(c) Conforming Amendments.—

(11) The amendments made by this section shall apply to any fuel sold at retail after December 31, 2006, in taxable years ending after such date.

SEC. 40A. 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 the item:

‘‘(d) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF A COOPERATIVE.—(1) Election to allocate.—(A) In general.—In the case of a cooperative organization described in section 138(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

(B) Use treated as sale.—If any amount determined under subsection (a) with respect to the organization for the taxable year,
(m) CONFORMING AMENDMENTS.—Subclause (ii) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (3) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit described in subsection (a) for any taxable year, beginning after the date of the enactment of this Act, for any biodiesel V or biodiesel NV which—

"(i) is sold by the taxpayer producing such biodiesel to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such biodiesel in connection with the taxpayer's trade or business, is the sum of the products of the biodiesel mixture rate and the amount of the biodiesel mixture credit.

"(B) ALTERNATIVE DETERMINATION.—For purposes of subsection (a), any credit determined under section 40(b) or (c) shall be determined in an amount equal to the biodiesel mixture credit.

"(2) CONFORMING AMENDMENT.—Subclause (ii) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (3) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit described in subsection (a) for any taxable year, beginning after the date of the enactment of this Act, for any biodiesel V or biodiesel NV which—

"(i) is sold by the taxpayer producing such biodiesel to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such biodiesel in connection with the taxpayer's trade or business, is the sum of the products of the biodiesel mixture rate and the amount of the biodiesel mixture credit.

"(B) ALTERNATIVE DETERMINATION.—For purposes of subsection (a), any credit determined under section 40(b) or (c) shall be determined in an amount equal to the biodiesel mixture credit.

"(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"Sec. 4104. Credit against motor fuels taxes.

"(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

"(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 32 is amended by striking paragraphs (B) and (C) of section 4091(b) (relating to certain taxes not transferred to Highway Trust Fund) and is amended by inserting after section 4091(b)

"(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

"Sec. 4008. INCENTIVES FOR BIODIESEL.

"(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

"(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 32 is amended by striking paragraphs (B) and (C) of section 4091(b) (relating to certain taxes not transferred to Highway Trust Fund) and is amended by inserting after section 4091(b)

"(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

"Sec. 104. BIODIESEL USED AS FUEL.—

"(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

"(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 32 is amended by striking paragraphs (B) and (C) of section 4091(b) (relating to certain taxes not transferred to Highway Trust Fund) and is amended by inserting after section 4091(b)

"(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

"Sec. 2006. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

"(a) IN GENERAL.—Section 9503(b) of chapter 32 is amended by striking paragraphs (B) and (C) of section 4091(b) (relating to certain taxes not transferred to Highway Trust Fund) and is amended by inserting after section 4091(b)

"(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

"Sec. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

"(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40(c) (relating to alcohol fuels) is amended by inserting at the end the following new subsection:

"(i) CREDIT MAY BE TRANSFERRED.—

"(1) IN GENERAL.—A taxpayer may transfer any credit allowable under subsection (a) or (2) of section 40(c) (relating to alcohol fuels) to any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee.

"(ii) REQUIREMENT.—An election to transfer a credit under this section shall be irrevocable and is made by the taxpayer for any taxable year beginning after the date of the enactment of this Act.
sunflower seeds, cottonseeds, canola, crambes, rapeseeds, safflower, flaxseeds, rice bran, and mustard seeds.

(2) BIODEisel NV DEFINED.—The term ‘‘biodeisel NV’’ means monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compression-ignition (diesel) engines.

(b) REQUIREMENTS.—The terms ‘‘biodeisel V’’ and ‘‘biodeisel NV’’ shall only include a biodiesel which meets—

(1) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

(2) the requirements of the American Society of Testing and Materials D6751.

(2) BIODEisel MIXTURE NOT USED AS A FUEL, ETC.—

(A) IMPOSITION OF TAX.—If—

(ii) 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,

(iii) any person—

(II) without separation, uses the mixture other than as a fuel, then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable to biodiesel V and the number of gallons of the mixture.

(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and consistent with the provisions of this paragraph, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

(4) TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

(A) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

(B) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to this subsection).

(C) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may prescribe.

(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 striking ‘‘plus’’ at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ‘‘plus’’, plus, and by adding at the end of such section the following new paragraph:

(17) the biodiesel fuels credit determined under section 408(a).

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 408 may be carried back to a 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 fuels credit determined under this section.

(C) Section 6501(m), as amended by this Act, is amended by insertions ‘‘408(b),’’ after ‘‘408(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 after the item relating to section 40A the following new item:

Sec. 40B. Biodiesel used as fuel.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall be applied in accordance with the requirements of section 40B.

(f) TAX PRIOR TO MIXING.—

(A) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel NV, the tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate if any) applicable to the mixture.

(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

(g) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

(h) CERTAIN RULES TO APPLY.—

(A) RELEVANT RULES OF SUBPART D OF PART IV OF SUBCHAPTER A OF CHAPTER 1.—Rules similar to the rules of paragraphs (6) and (7) of section 501(a) shall apply for purposes of this subsection.

(B) CONFORMING RULES.—Section 501(a) is amended by adding after paragraph (10) the following new paragraph:

(11) the biodiesel fuels credit determined under section 40A shall be the otherwise applicable rate reduced by the biodiesel mixture rate if any) applicable to the mixture.

(i) TAX ON BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

(1) IN GENERAL.—If the biodiesel mixture rate (if any) applicable to the mixture.

(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to this subsection).

(j) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may prescribe.

(k) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.

(2) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by adding at the end the following new paragraph:

(12) the biodiesel fuels credit determined under section 40B.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 408 may be carried back to a 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 fuels credit determined under this section.

(C) Section 6501(m), as amended by this Act, is amended by insertions ‘‘408(b),’’ after ‘‘408(f),’’.

(d) The table of sections for subpart D of part IV of subchapter A of chapter 1 (relating to business-re-
SEC. 2101. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking "(4)"
(striking "4 percent") and inserting "(4)"
(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

"(f) TERMINATION.—This subsection shall not apply to any property placed in service—

"(1) after December 31, 2011, and

"(2) in the case of any other property, after December 31, 2011."

(2) 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"; and

(B) by striking "2006 calendar year in the case of property relating to hydrogen".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUEL STATIONS.—Subsection (f) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

"(f) TERMINATION.—This subsection 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, 2011."

(2) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(3) IN GENERAL.—Subsection (g) of section 47 of such Code, as added by section 148 of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "January 1, 2002, 2003, and 2004" in clause (i); and

(B) by inserting "January 1, 2002, 2003, 2004, and 2005" after "2004" each place it appears in clause (i) and clause (iv).

(TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS)

SEC. 2102. CREDIT FOR CONSTRUCTION OF NEW MANUFACTURED 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:

"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted basis of energy efficient property installed in fulfilling new home construction.

"(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 subsection (a), 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 constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code and constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

"(ii) in the case of a 50-percent home, $2,000.

"(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

"(A) the term 'eligible contractor' means a contractor 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;

"(B) prior credits amounts on same home taken into account—If a home 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) 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.

"(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a new home, after December 31, 2011, and

"(A) located in the United States, and

"(B) constructed in accordance with the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

"(ii) in the case of a 50-percent home, $2,000.

"(1) MAXIMUM CREDIT.—The term 'energy efficient property' includes property which is attributable to the rehabilitation credit (as determined under section 42P), the环境保护 credit (as determined under section 42L), the energy efficiency property expense (as determined under section 25C(b)), and the investment credit (as determined under section 25D(b)).

"(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means energy efficient building envelope components and energy efficient heating or cooling equipment installed in the qualifying new home and 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) constructed in accordance with the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.

"(C) energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar 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) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, and shall be permanently displayed in a readily inspectable location in such home.

"(1) REGULATIONS.—

"(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after consultation with the requirements and energy efficiency standards and energy efficiency rating providers specified by the Mortgage Industry National Accreditation Procedures 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.

"(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment.
be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and
(ii) require that any computer software authorized by law for Federal tax purposes specifically designed for the Mortgage Revenue Bond program be used in making the determination.

(b) PROVIDERS.—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 auditors specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

(c) LIMITATION ON CARRYBACK.—Subsection (a) shall apply to qualified new homes purchased during the period beginning on the date of the enactment of this Act and ending on December 31, 2006.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking “plus” 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:

(18) the new energy efficient home credit determined under section 45(g)(2).”.

(d) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

(14) the hourly labor rate for the taxable year. 

(ii) for purposes of subpart D of part IV of subchapter A of chapter 1 (relating to business-re

(a) Allowance of Credit.—The term ‘qualified energy efficient appliance credit’ means the credit allowed to a taxpayer for the taxable year with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date.

(b) Maximum Credit.—The term ‘qualified energy efficient appliance’ means a residential style coin operated washer, a residential style coin operated dryer, a residential style refrigerator, or a residential style heat pump.

(c) Credit Amount.—The term ‘credit amount’ means the credit allowed to a taxpayer for the taxable year with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date.

(1) IN GENERAL.—The credit allowed under subsection (a) with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date shall be

(1) IN GENERAL.—The credit allowed under subsection (a) with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date shall be

(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) and all persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.

(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.

(a) Allowance of Credit.—The term ‘qualified energy efficient appliance’ means a residential style coin operated washer, a residential style coin operated dryer, a residential style refrigerator, or a residential style heat pump.

(b) Maximum Credit.—The term ‘qualified energy efficient appliance’ means a residential style coin operated washer, a residential style coin operated dryer, a residential style refrigerator, or a residential style heat pump.

(c) Credit Amount.—The term ‘credit amount’ means the credit allowed to a taxpayer for the taxable year with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date.

(1) IN GENERAL.—The credit allowed under subsection (a) with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date shall be

(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.

(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.

(a) Allowance of Credit.—The term ‘qualified energy efficient appliance’ means a residential style coin operated washer, a residential style coin operated dryer, a residential style refrigerator, or a residential style heat pump.

(b) Maximum Credit.—The term ‘qualified energy efficient appliance’ means a residential style coin operated washer, a residential style coin operated dryer, a residential style refrigerator, or a residential style heat pump.

(c) Credit Amount.—The term ‘credit amount’ means the credit allowed to a taxpayer for the taxable year with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date.

(1) IN GENERAL.—The credit allowed under subsection (a) with respect to a qualified energy efficient appliance produced after December 31, 2002, in taxable years ending after such date shall be

(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.

(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) shall be treated as a single employer under subsection (a) or (b) for purposes of this section.
such purpose is derived from the sun. 

(ii) in a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5.

(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency with the performance and safety ratings to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

(iv) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

(f) LABOR COSTS.—Expenditures for labor costs shall not be taken in connection with the construction, assembly, or installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect solar panels, unless such labor costs shall be taken into account for purposes of this section.

(v) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

(vi) SPECIAL RULES.—For purposes of this section:

(A) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year by 2 or more individuals, the following shall apply:

(1) The amount of the credit allowable under subsection (a) for the taxable year shall not exceed the excess of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under this subpart (other than this section and section 25D) and

section 27 for the taxable year.

(B) CONFORMING AMENDMENTS.—

(1) Section 25C(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D) and

section 27 for the taxable year)” and inserting “subsection (b)’s”.

(2) Section 23(b)(4)(B) is amended by inserting “and section 25C” after “this section”.

(3) Section 24(b)(3)(B) is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(4) Section 25D(1)(C) is amended by inserting “25B” after “25C”.

(5) Section 25G(2) is amended by striking “section 23” and inserting “sections 23 and 25B”.

(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

(D) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall be added to the credits allowable under this subpart (other than this section and section 25D) any expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

(E) BASIS ADJUSTMENTS.—For purposes of this subpart, if a credit under this section for any expenditure with respect to any property, the basis of such property (as defined in section 26(b)) plus the tax imposed by section 55, over

the sum of the credits allowable under this subpart (other than this section and section 25D) and

section 27 for the taxable year)...

(vi) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.

(vii) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end of the following new paragraph:

(2) CONFORMING AMENDMENTS.

(A) Section 25C(c), as added by subsection (a), is amended by striking “section 26(a) for such taxable year”) and inserting “subsection (b)’s”.

(2) Section 23(b)(4)(B) is amended by inserting “and section 25C” after “this section”.

(3) Section 24(b)(3)(B) is amended by striking “23 and 25B” and inserting “23, 25B, and 25C”.

(4) Section 25D(1)(C) is amended by inserting “25B” after “25C”.

(5) Section 25G(2) is amended by striking “section 23” and inserting “sections 23 and 25B”.

(6) Section 26(a)(1) is amended by striking “and 25B” and inserting “and 25B and 25C”.

(7) Section 904(h) is amended by striking “and 25B” and inserting “and 25B and 25C”.

(8) Section 1400C(d) is amended by striking “and 25B and 25C”.

(9) Section 25C(3), as in effect for taxable years beginning before January 1, 2004, is amended by striking “section 1400C” and inserting “sections 25C and 1400C”.

(10) Section 25C(3)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting “25C, and 25C” after “sections 25B and 25C”.

(11) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and at the end of the paragraph (29), by striking the period at the end of paragraph (30) and inserting “,” and by striking the end of the paragraph if the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.

(12) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting “and section 25C” after “25C, and 25C”.

(13) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by
SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(4)(C) (defining energy property) is amended by striking "or" at the end of clause (ii), and by inserting "or" at the end of clause (iii) 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 subsection—

"(A) QUALIFIED FUEL CELL PROPERTY.—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(i) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) QUALIFIED MICROTURBINE PROPERTY.—

"(i) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at generation efficiency not less than 26 percent at—

"(II) includes a fuel compressor, recuperator/ regenerator, generator or alternator, integrated combined cooling-heat-power, chiller and associated fuel delivery equipment, cooling-heating and power conditioning apparatus, and power conditioning equipment, and

"(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2003.

(c) LIMITATION.—Section 48(b)(1)(A) (relating to energy percentage) is amended to read as follows:

"(A) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures 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.

"(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

"(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed or in connection with new 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 low-rise 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 expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subpart (C) of section 43 of the Energy Policy Act of 1992. Such term shall be as defined by the Administrator of the Department of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and costs, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements—

(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt-hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

(ii) The calculation methodology shall require that the compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide for addition of energy use based on the date system is operational.

(iii) The expenses taken into account under paragraph (1) shall not occur until the date the systems are operational.

(iv) The calculation methods under this subsection shall not include any energy-using systems of the building.

"(B) EFFECTIVE DATES.—The effective date for this subsection is July 31, 2003.
CONGRESSIONAL RECORD — SENATE  
July 31, 2003

S10822

"(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance;

"(C) COMPUTER SOFTWARE. —

"(i) In general. —Any calculation under this paragraph shall be prepared by qualified computer software.

"(ii) QUILIFIED COMPUTER SOFTWARE. —For purposes of this subparagraph, the term 'qualified computer software' includes software for the purposes of this paragraph which has been certified by the Secretary as meeting the requirements prescribed under this section.

"(III) which provides such forms as required to be filed with respect to any energy efficient commercial building property, the Secretary shall provide the following:

"(b) DEFINITION OF QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES. —

"(a) In general. —In the case of the owner of the building property placed in service after December 31, 2003, the taxpayer shall provide an explanation to the Secretary of the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii). The Secretary shall consult with non-profit organizations to develop a program to qualified energy management devices.

"(b) MAXIMUM DEDUCTION. —The deduction allowed by this section shall not exceed 30% of the cost of any property placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.

"(C) PROFICIENCY OF QUALIFIED INDIVIDUALS. —The Secretary shall consult with the following organizations or agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance:

"(d) EFFECTIVE DATE. —The amendments made by this section shall apply to taxable years beginning after December 30, 2003.

SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEMS.

"(a) IN GENERAL. —For purposes of this section, "combined heat and power system property" means any qualified energy management device.

"(b) DEFINITION OF QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

"(a) IN GENERAL. —In the case of a taxpayer who is a supplier of electric energy or natural gas, or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of any property placed in service after December 31, 2003, and after December 31, 2003, which permits reading of energy price and usage signals and on at least a daily basis.

"(d) PROPERTY USED OUTSIDE THE UNITED STATES. —Qualified energy management device shall be treated as property placed in service outside the United States or with respect to the portion of the cost of such property taken into account under section 179.

"(e) BASIS REDUCTION. —In the case of a taxpayer who is a provider of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction the amount equal to the cost of any property placed in service after December 31, 2003, and after December 31, 2003, which permits reading of energy price and usage signals and on at least a daily basis.

"(f) QUALIFICATION. —The Secretary shall require the property to be placed in service after December 31, 2003, and after December 31, 2003, and after December 31, 2003, and after December 31, 2003, which permits reading of energy price and usage signals and on at least a daily basis.

"(g) TERMINATION. —This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

"(h) CONFORMING AMENDMENTS. —

"(i) Basis of any property placed in service after December 31, 2003, which permits reading of energy price and usage signals and on at least a daily basis.

"(j) Ordinary income recapture. —For purposes of section 1245, the amount of the deduction allowed under subsection (a) with respect to any property that is a character subject to recapture shall be treated as a deduction allowed for depreciation under section 167.

"(k) COMBINED HEAT AND POWER SYSTEM PROPERTY. —The term 'combined heat and power system property' means property comprising a system—

"(l) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both.

SEC. 2109. ENERGY CREDIT FOR QUALIFIED NEW OR RETROFITTED QUALIFIED ENERGY MANAGEMENT DEVICES.

"(a) IN GENERAL. —Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (ii), by adding "and" at the end of clause (iii) and inserting ", or", and by adding at the end of the following new paragraph:

"(j) ENERGY MANAGEMENT DEVICES. —The term 'energy management device' means any qualieed energy management device placed in service during the taxable year.

"(k) DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES. —

"(b) MAXIMUM DEDUCTION. —The deduction allowed by this section shall not exceed 30% of the cost of any property placed in service after December 31, 2003, and after December 31, 2003, and after December 31, 2003, and after December 31, 2003, which permits reading of energy price and usage signals and on at least a daily basis.

"(c) EFFECTIVE DATE. —The amendments made by this section shall apply to taxable years beginning after December 30, 2003.

SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR QUALIFIED NEW OR RETROFITTED QUALIFIED ENERGY MANAGEMENT DEVICES.

"(a) IN GENERAL. —Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking "and" at the end of clause (ii), by adding "or" at the end of clause (iii) and inserting ", or", and by adding at the end of the following new paragraph:

"(j) All the provisions of subtitle A, chapter 1, including the most recent amendment made by this Act, are applicable to qualified energy management device placed in service after the date of the enactment of this Act, in taxable years ending after such date.

"(k) DEDUCTION FOR QUALIFIED NEW OR RETROFITTED QUALIFIED ENERGY MANAGEMENT DEVICES.
(iii) which produces—

(a) at least 20 percent of its total useful energy in the form of electrical, and

(b) at least 20 percent of its total useful energy in the form of mechanical energy, and

(c) which is placed in service after December 31, 2002, and before January 1, 2007.

(3) DETERMINATIONS MADE ON BTU BASIS. — The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a BTU basis.

(4) RULE OF PROPERTY NOT INCLUDED. — 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.

(iv) PUBLIC UTILITY PROPERTY. —

(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY. — The energy efficiency percentage of a system with an electrical capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities, and which is placed in service after December 31, 2002, and before January 1, 2007.

(II) 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 credit was allowed to the taxpayer under subparagraph (1)(A) in any prior taxable year, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of the credit allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

(c) Carry Forward ofUnused Credit. — If the credit allowable under subsection (a) exceeds the limitation imposed by section 48(a)(6)(C) for such taxable year reduced by the sum of the credits allowable under this subsection for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) in such succeeding 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 2001 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 managed jointly 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 in comparison to the results. Such software shall meet procedures and methods for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results.

(3) FORM. — A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient component, measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

(4) REGULATIONS. —

(a) IN GENERAL. — In prescribing regulations under this subsection for certification methods described in paragraph (3)(A) of the Secretary, the Secretary shall prescribe procedures for certifying buildings with energy performance calculation method to the results. Such regulations shall—

(i) provide that any calculation procedures be 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 printing of the federal tax form necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

(b) PROVIDERS. — 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 rated systems for the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

(4) DEFINITIONS AND SPECIAL RULES. — For purposes of this section—

(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY. — In the case of any dwelling unit which is jointly occupied and used 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 be determined by treating all 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 by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

To such usage for such dwelling in its original condition, and

(iii) accompanied by a written analysis documenting the proper application of a permissible performance calculation method described in subsection (d).

(2) COMPUTER SOFTWARE. — Computer software shall be used in support of calculation methods described in subsection (d).

Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations shall specify the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

(3) FORM. — A certification described in subsection (d) shall be provided by—

(A) in the case of the method described in paragraph (3)(A), by a building architect or a building designer, or such local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

(B) in the case of the method described in paragraph (3)(B), an individual recognized by an organization designated by the Secretary for such purposes.
such expenditures made by all of such individuals during such calendar year.

(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder under this subpart (other than a subpart as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual has and carries over to any taxable year an individual’s proportionate share of the cost of qualified energy efficiency improvements made by such association.

(3) CONDOMINIUM ASSOCIATION.—For purposes of this paragraph, the term ‘‘condominium association’’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(4) HOPE COMPONENT.—The term ‘‘building envelope component’’ means—

(A) insulation material or system which is specifically and primarily designed to reduce the heat loss associated with dwelling in which installed or on such dwelling.

(B) exterior windows (including skylights), and

(C) exterior doors.

(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term ‘‘dwelling’’ includes manufactured home which conforms to federal manufactured home construction and safety standards (24 C.F.R. 3280).

(6) QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.—For purposes of this subtitle, 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 the enactment of this section and ending on December 31, 2006.

(i) CREDIT REDUCED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(A) the amount of an amount equal to the cost of each qualified water submetering device in service during the taxable year.

(3) MEDIUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

(4) ELIGIBLE RESUPPLIER.—For purposes of this section, the term ‘‘eligible resupplier’’ means any taxpayer who purchases and installs qualified water submetering devices in any entity in any multi-unit property.

(5) QUALIFIED WATER SUBMETERING DEVICE.—The term ‘‘qualified water submetering device’’ means any tangible property which qualifies for the purposes of section 1245, the amount of the deduction allowable with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

(j) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2006.

(k) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ‘‘after 2002’’ and inserting ‘‘and after 2002’’.

(2) Section 23(b)(4)(B), as amended by this Act, is amended by striking ‘‘or’’ and inserting ‘‘and’’, and by adding at the end the following new paragraph:

The table of sections for subpart A of part II of title IV of subchapter A of chapter 1, as amended by this Act, is amended by striking ‘‘25C’’, ‘‘25D’’, and ‘‘25E’’, and by adding at the end the following new subparagraph:

SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(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 179G the following new section:

Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.

(a) ALLOWABLE DEDUCTION.—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 metering device (including ancillary equipment) installed in or on such dwelling.

(1) FOR PURPOSES OF SECTION 1245.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

(b) BASIS REDUCTION.—

(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

(c) TERMINATION.—This section shall not apply to any property placed in service before December 31, 1970.

(d) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by adding at the end the following new subparagraph:

(2) Section 23(b)(4)(B), as amended by this Act, is amended by striking ‘‘or’’ and inserting ‘‘and’’, and by adding at the end the following new paragraph:

The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

The amendments made by this section shall apply to qualified water submetering devices in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 2111. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(f)(5)(A) relating to qualified water submetering devices is amended by striking ‘‘and’’ at the end of clause (ii), by striking the period at the end of clause (iii), by inserting ‘‘and’’, and by adding at the end the following:

(i) any qualified water submetering device.’’.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

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, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending before 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
S. 10825

D of part IV of subsection A of chapter I (relating to business related credits), as amended 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 38, the qualified 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 which is—

(A) the amount specified in subparagraph (B), multiplied by

(B) 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 after achieving a qualifying clean coal technology unit,

(2) the applicable amount of clean coal technology production credit for the production of electricity, or any other technology for the production of

(b) Applicable Amount.—

(1) In General.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

(c) Inflation Adjustment.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied.

(d) Definitions and Special Rules.—For purposes of this section:

(1) 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 coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

(C) is not a cyclone-fired boiler, and

(D) is not receiving nor is scheduled to receive any allocation of a portion of the national megawatt capacity limitation allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(4)(C), does not exceed 1,000 megawatts,

(E) receives an allocation of a portion of the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

(2) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

(A) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new 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 for any unit; and

(B) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

(3) METHODOLOGY.—(A) The credit allowed for production from a qualifying clean coal technology unit to which this section applies shall be determined by—

(i) a schedule which takes into account the applicable percentage of the kilowatt heat input to and the design annual net electrical heat rate with respect to any unit, measured in inch absolute (psia), pound)/(1,000) X 0.013 (the applicable amount of clean coal technology production credit for the production of electricity, or any other technology for the production of clean coal, shall be equal to such amount rounded to the nearest 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, the applicable percentage of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

(d) Definitions and Special Rules.—For purposes of this section:

(1) 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 coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

(C) is not a cyclone-fired boiler, and

(D) is not receiving nor is scheduled to receive any allocation of a portion of the national megawatt capacity limitation allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(4)(C), does not exceed 1,000 megawatts,

(E) receives an allocation of a portion of the national megawatt capacity limitation in such manner as the Secretary may prescribe under the regulations under paragraph (3).

(2) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

(A) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new 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 for any unit; and

(B) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

(3) METHODOLOGY.—(A) The credit allowed for production from a qualifying clean coal technology unit to which this section applies shall be determined by—

(i) rounding to the nearest multiple of 0.01 cent.

(II) 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.

(d) To allocate the national megawatt capacity limitation to a portion of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

(F) to provide taxpayers with opportunities to accept administratively expedited approvals 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 (18), by striking the period at the end of paragraph (19) and inserting "; plus", and by adding at the end the following new paragraph:

(19) No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45L(a).

(c) Transitional Rule.—Section 39(k), 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 45L CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45L(a) shall be carried back to a taxable year ending on or before the date of the enactment of section 45L.

(d) Clerical Amendment.—The table of sections for part D of part IV of chapter A of part I, as added by this Act, is amended by adding at the end the following new item:
Sec. 45I. Credit for production from a qualifying clean coal technology unit.

(a) Allowance for Qualifying Advanced Clean Coal Technology Unit Credit.—Section 46 (relating to amount of credit) is amended by striking the period at the end of paragraph (2), by striking 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 part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting 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 of the taxpayer which was placed in service during the 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), "a qualifying advanced clean coal technology unit" means an advanced clean coal technology unit of the taxpayer—

(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009), 8,350 in the case of units placed in service after 2008 and before 2013), and

(C) has a net thermal efficiency (HHV) using an eligible integrated gasification combined cycle technology unit which—

(i) is placed in service after the date of the enactment of this section and before January 1, 2017, and

(ii) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

(iii) has a number of hours of net output—

(A) for qualifying advanced clean coal technology units using advanced coal or atmospheric fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

(B) for units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

(C) for units using gasification combined cycle technology, with or without a fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

(D) for units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

(2) allocation of limitation.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

(3) 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—

(A) to carry out the purposes of this subsection and section 45I,

(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity limitation of all such units under this section applies does not exceed 4,000 megawatts,

(C) to provide a certification process described in section 45I(e)(3)(C),

(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to any other technology described in subparagraphs (A) through (D) in order to maximize the amount of energy efficient production encouraged with the available tax credits.

(4) selection criteria.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

(A) shall be established by the Secretary of Energy as part of a competitive solicitation—

(i) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

(ii) shall include up to two secondary criteria as determined appropriate by the Secretary of Energy.
(2) The applicable percentage (as determined under section 48A(c)) of the sum of—

(A) the kilowatt hours of electricity, plus

(B) each 3,413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

(b) Applicable Amount.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

(1) Where the qualifying advanced clean coal technology unit is producing electricity only—

(A) In the case of a unit originally placed in service before 2009, if—

<table>
<thead>
<tr>
<th>The applicable amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years of such service</td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td>Not more than 7,380</td>
</tr>
<tr>
<td>More than 7,380 but not more than 8,125</td>
</tr>
<tr>
<td>More than 8,125 but less than 8,350</td>
</tr>
<tr>
<td>More than 8,350</td>
</tr>
</tbody>
</table>

(2) In the case of a unit originally placed in service after 2008 and before 2013, if—

<table>
<thead>
<tr>
<th>The applicable amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years of such service</td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td>Not more than 7,380</td>
</tr>
<tr>
<td>More than 7,380 but not more than 8,125</td>
</tr>
<tr>
<td>More than 8,125 but less than 8,350</td>
</tr>
<tr>
<td>More than 8,350</td>
</tr>
</tbody>
</table>

(3) In the case of a unit originally placed in service after 2012 and before 2017, if—

<table>
<thead>
<tr>
<th>The applicable amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years of such service</td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td>Not more than 7,380</td>
</tr>
<tr>
<td>More than 7,380 but not more than 7,720</td>
</tr>
<tr>
<td>More than 7,720</td>
</tr>
</tbody>
</table>

(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals—

(A) In the case of a unit originally placed in service before 2009, if—

<table>
<thead>
<tr>
<th>The applicable amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years of such service</td>
</tr>
<tr>
<td>-----------------------------</td>
</tr>
<tr>
<td>Not less than 20 percent</td>
</tr>
<tr>
<td>Less than 20 percent but not less than 40 percent</td>
</tr>
<tr>
<td>Less than 40 percent but not less than 8 percent</td>
</tr>
</tbody>
</table>

(2) The applicable amount of such credit (as determined under section 48A(c)) is the product of—

(A) the amount of such fuel or chemicals produced during each year the unit is in service (or returned to service after becoming a qualifying advanced clean coal technology unit), and

(B) the applicable percentage (as determined under section 48A(c)) of the sum of—

(A) the kilowatt hours of electricity, plus

(B) each 3,413 Btu of fuels or chemicals, produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

(c) Definitions.—For purposes of this section—

SEC. 3121. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(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 striking "qualified clean coal technology credit"

and inserting "qualified advanced clean coal technology unit credit."

(b) Effective Date.—The amendments made by this section shall apply to the taxable years beginning after September 30, 2008.
Subtitle C—Treatment of Persons Not Able to Use Entire Credit

Section 2221. Treatment of Persons Not Able to Use Entire Credit.

(a) In General.—Section 45, as added by this Act, is amended by adding at the end the following new subsection:

"(f) Treatment of Person Not Able to Use Entire Credit.—

(1) ALLOWANCE OF CREDITS.—

(A) In General.—Any credit allowable under this section, section 45G, or section 48A with respect to a facility owned by a person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(A) shall be treated as arising from the exercise of an essential government function.

(B) TRANSFER OF CREDIT.—

(i) In general.—Any credit described in subparagraph (A) is claimed once and not reassigned by such other person that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

(ii) the qualified natural gas production which is produced from a qualified marginal well.

(2) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—For purposes of this section—

(i) the credit amount, and

(ii) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

(3) CREDIT AMOUNT.—For purposes of this section—

(i) the credit amount, and

(ii) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

(b) Effective Date.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIII—OIL AND GAS PROVISIONS

Section 2301. Oil and Gas from Marginal Wells.

(a) General Rule.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of the following:

(1) the credit amount, and

(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

(1) Reference Price.—For purposes of this paragraph, the term "reference price" means, with respect to any calendar year—

(i) the effect (if any) of the applicable reference price increase over $15 (for qualified natural gas production), bears to—

(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

(2) Reference Price.—For purposes of this paragraph, the term "reference price" means, with respect to any calendar year—

(i) the effect (if any) of the applicable reference price increase over $15 (for qualified natural gas production), bears to—

(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

(3) Reference Price.—For purposes of this paragraph, the term "reference price" means, with respect to any calendar year—

(i) the effect (if any) of the applicable reference price increase over $15 (for qualified natural gas production), bears to—

(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

(4) Reference Price.—For purposes of this paragraph, the term "reference price" means, with respect to any calendar year—

(i) the effect (if any) of the applicable reference price increase over $15 (for qualified natural gas production), bears to—

(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

(5) Reference Price.—For purposes of this paragraph, the term "reference price" means, with respect to any calendar year—

(i) the effect (if any) of the applicable reference price increase over $15 (for qualified natural gas production), bears to—

(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.
(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent that the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

(8) PROPORTIONATE REDUCTIONS.—In the case of a taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days of production bears to 365.

(iii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of producing on each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

(3) DEFINITIONS.—

(6) QUALIFIED CAPITAL COSTS.—The term ‘qualified capital costs’ means any costs—

(A) are otherwise chargeable to capital accounts, and

(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement 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 REFINER.—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, refines not more than 1,000 barrels per day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section does not exceed 205,000 barrels of crude oil.

(3) COMING INTO ACCOUNT.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 41(h) shall be treated as a single employer.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ‘or’ at the end of sub-paragraph (i), by striking the period at the end of sub-paragraph (i) and inserting ‘,’ and, by inserting after sub-paragraph (j) the following new sub-paragraph:

(3) K expenditures for which a deduction is allowed under section 179.

(2) Section 263(a)(c) is amended by inserting ‘179c,’ after ‘section.’

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ‘or 179c’ and inserting ‘or 179c’.

(4) Section 179C(d), as amended by this Act, is amended by striking ‘and’ at the end of sub-paragraph (3), and inserting ‘and’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified capital costs taken into account after such date.

SEC. 2302. EXPENSI NG 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.

(a) TREATMENT AS EXPENSE.—

(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

(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 such year.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—
SEC. 2304. ENVIRONMENTAL TAX 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. 45L. ENVIRONMENTAL TAX CREDIT."

"(a) 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 equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

(b) MAXIMUM CREDIT.—

"(1) AMOUNT.—A small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

"(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

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

"(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

"(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

"(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

"(4) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit determined under subsection (a) is allowable, the Administrator of the Environmental Protection Agency, in consultation with the Administrator of the Environmental Protection Agency, shall study and report to the Congress on the implementation of the standards and regulations of the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will be in compliance with the applicable EPA regulations.

"(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating efficiency for the facility. In addition, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

"(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be given within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer shall be deemed to have been certified until so notified.

"(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

"(A) IN GENERAL.—The period of time for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

"(B) SUCH DEFICIENCY MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH 3-YEAR PERIOD NOTWITHSTANDING THE STATUTE OF LIMITATIONS FOR ANY SUCH DEFICIENCY.

"(f) COOPERATIVES.—

"(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantities of the qualified capital costs paid or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

"(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

"(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

"(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron during which the patron receives notice from the cooperative of the apportionment.

"(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) and inserting ', plus', and by adding at the end the following new paragraph:

"(23) 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 or deductions are otherwise allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

"(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a)."

"(d) CLERICAL AMENDMENT.—The table of sections for part 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."

"(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, but only for taxable years beginning after such date.

SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEPRECIATION.

(a) IN GENERAL.—Paragraph 4 of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

"(4) CERTAIN EXCLUSIONS.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if 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 the aggregate of the daily 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 LIMITATIONS.

Section 63A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by section 606 of the Job Creation and Worker Assistance Act of 2002, is amended by striking '2004' and inserting '2007'.

SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOGRAPHICAL EXPENDITURES.

(a) IN GENERAL.—Part VI of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"Sec. 199A. AMORTIZATION OF GEOLOGICAL AND GEOGRAPHICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.

"A taxpayer shall be entitled to an amortization deduction for 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 638) during any taxable year ending after December 31, 2002 for taxable years beginning in months beginning with the month in which such expenses were incurred.

"(b) CREDITS.—The credits attributable to such 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 638) shall apply to taxable years beginning after December 31, 2002.

SEC. 2308. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Part VI of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

"Sec. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.

"(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.

"(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.

"(c) CREDITS.—The credits attributable to such delay rental payments shall apply to taxable years beginning after December 31, 2002.

SEC. 2309. STUDY OF COAL BED METHANE.

"LIMITATION.—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, as provided in section 607 of the Energy Policy Act of 2003.
such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also study and estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government of the coal gasification benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 2126. DEFINITIONS AND MEASUREMENT OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Sec. 2127. REFINED COAL—IN GENERAL.

Sec. 2128. REFINED COAL—APPLICATION OF SEC. 2127.

Sec. 2129. COVERED FACILITIES—IN GENERAL.

Sec. 2130. COVERED FACILITIES—APPLICATION OF SEC. 2127.

Sec. 2131. QUALIFIED ENHANCED VALUE.

Sec. 2132. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.

Sec. 2133. WEBS PRODUCING VISCOS OIL.

Sec. 2134. ADVERSE WEBS.

Sec. 2135. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

Title XXIV—ELECTRIC UTILITY Restructuring Provisions

Sec. 2401. ONGOING STUDY AND REPORTS REGARDING ZONING AND TRANSFER OF FUTURE RESTRUCTURING DECISIONS.

Sec. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

Sec. 2403. TREATMENT OF FUND TRANSFERS.

Sec. 2404. DECOMMISSIONING COSTS WHEN PAID.
"(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2403. TREATMENT OF CERTAIN INCOME OF ELECTRIC COMPANIES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of subparagraph (i) and, by adding at the end of such subparagraph, the following new clause:

"(iii) from any open access transaction (other than a generation transaction, or adding at the end the following new clauses:

(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 Federal Credit Reform Act of 1990.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new sub-paragraphs:

"(E) For purposes of subparagraph (C)(iii)—

(i) The term 'open access transaction' means any transaction involving 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 this subsection only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

(II) The delivery of sale of electric energy generated by a generation facility meets the open access requirements of this subsection only if such services are provided on a non-discriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

(iii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if such electric company files a report with FERC within 90 days after the date of the enactment of this paragraph relating to whether such company will join a regional transmission organization.

(ii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i) if a regional transmission organization controls the transmission facilities.

(iv) References to FERC in this subparagraph only include references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 792(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

(v) For purposes of this subparagraph—

(A) the term 'distribution facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c) is amended by adding after subparagraph (G) the following new subparagraph:

"(H) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 501(c)(12), income received or accrued from a load loss transaction 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:

"(x) PROVISIONS APPLICABLE TO MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

"(C) CROSS REFERENCE.—"For treatment of income from load loss transactions of organizations described in section 501(c)(12)(H), see section 1381(a)(2)(C)

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT NUCLEAR ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxability of income) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

(1) IN GENERAL.—For purposes of this subsection—

(A) a regional transmission organization approved by the Federal Energy Regulatory Commission, or

(B) any stock or partnership interest in a mutual or cooperative electric company's annual load loss for each year of the recovery period is the sum of the annual load losses for each year of such period.

(ii) For purposes of clause (ii) with respect to the term "load loss mitigation sales" for purposes of this joint.
transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission’s rules applicable to regional transmission organization transactions.

(2) 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

(3) the reclassification of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government’s forgone revenue to the aggregate amount of energy actually consumed and tangible environmental benefits gained as a result.

(b) Reports.—The Comptroller General of the United States shall report the analysis required under subsection (a) not later than December 31, 2002, and annually thereafter.

SEC. 2503. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(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. 45M. ALASKA NATURAL GAS.

(1) 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 tax liability of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45(b)).

(2) Credit Amount.—For purposes of this section—

(A) January 1, 2010, or

(B) the initial date for the interstate transport of such Alaska natural gas, and

(2) except with respect to subsection (d), ending 3 years after the date described in paragraph (1).''

(g) Application of Section.—This section shall apply to 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 for the period—

(1) beginning with the later of—

(A) January 1, 2010, or

(B) the initial date for the interstate transport of such Alaska natural gas, and

(2) except with respect to subsection (d), ending 3 years after the date described in paragraph (1).''

(b) Credit Treated as Business Credit.—Section 38(b), 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 Alaska natural gas credit determined under section 45M(a).''

(c) Allowing Credit Against Entire Regulatory Tax and Minimum Tax.—Section 38(c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by adding the following new paragraph:

(5) Special Rules for Alaska Natural Gas Credit.—(A) In General.—In the case of the Alaska natural gas credit—

(i) this section and section 39 shall be applied separately with respect to the credit, and

(ii) the application of paragraph (1) (as modified by this Act) shall be reduced by the 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.—The tax for the taxable year shall be increased under paragraph (1) only with respect to the credits allowed by reason of this section which were used to reduce tax liability for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

(B) Application of Rules.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

(3) No Doubt Benefit.—The amount of any deduction or similar 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 such credit allowed for such fuel.

(g) Application of Section.—This section shall apply to 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 for the period—

(1) beginning with the later of—

(A) January 1, 2010, or

(B) the initial date for the interstate transport of such Alaska natural gas, and

(2) except with respect to subsection (d), ending 3 years after the date described in paragraph (1).''

(b) Credit Treated as Business Credit.—Section 38(b), 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 Alaska natural gas credit deter
of chapter 1, as amended by this Act, is amend-
ed by adding at the end the following new item:

"Sec. 45m. Alaska natural gas."

SEC. 2504. SALE OF GASOLINE AND DIESEL FUEL FOR TRANSPORTATION PROVIDED BY Seaplanes.

(a) PROHIBITION. —Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended —

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following new subsection:

"(6) Any gasoline or diesel fuel sold at a duty-
free sales enterprise shall be considered to be en-
tered for consumption into the customs territory
of the United States."

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM. —As amended by subsection (a), as amended by subsection (a), is amended by add-
ing at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicant, gasoline shall be treated as
having been used on a farm for farming purposes if the gaso-
line is used for the direct flight between the air-
field and 1 or more farms."

SEC. 2505. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PRO-
PERTY TREATED AS IN VOLUNTARY CONVERSION. —

(1) IN GENERAL. —Section 1033 (relating to in-
voluntary conversions) is amended by design-
ating subsection (k) as subsection (l) and in-
serting after subsection (j) the following new subsec-
ction:

"(k) QUALIFIED DISPOSITION TO IMPLEMENT
BOVINE TUBERCULOSIS ERADICATION PRO-
GRAM. —

"(1) IN GENERAL. —For purposes of this sub-
title, if a taxpayer elects the application of this
section to a qualified disposition, the term 'qualified disposition' means an involuntary
conversion that is treated as an involuntary conversion for purposes of subsection (k) of this section, and the provisions of that subsection shall apply to involuntary conversions treated as involuntary conversions for purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such dis-
position.

"(2) TERMINATION. —This subsection shall not apply to dispositions made after December 31, 2006."

(b) EFFECTIVE DATE. —The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(c) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT. —Property to be held by the tax-
payer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

(d) EXTENSION OF PERIOD FOR REPLACING PROPERTY. —Subsection (a)(2)(B)(ii) shall be ap-
plied by substituting "4 years" for "2 years".

(e) WAIVER OF UNRELATED PERSON REQUIREMENT. —Subsection (i) (relating to replacement property that is not qualified property) is amended by inserting the following new paragraph (i):

"(A) IN GENERAL. —For purposes of this sub-
title, if a taxpayer elects the application of this
section to a qualified disposition, the term 'qualified disposition' means an involuntary
conversion that is treated as an involuntary conversion for purposes of subsection (k) of this section, and the provisions of that subsection shall apply to involuntary conversions treated as involuntary conversions for purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such dis-
position.

"(B) TERMINATION. —This subsection shall not apply to dispositions made after December 31, 2006."

(f) QUALIFIED DISPOSITION — subsection (a), as amended by this section, is amended by adding at the end the following new flush sentence:

"For purposes of this subsection, the term 'qualified disposition' means an involuntary
conversion that is treated as an involuntary conversion for purposes of subsection (k) of this section, and the provisions of that subsection shall apply to involuntary conversions treated as involuntary conversions for purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such dis-
position."

(g) TERMINATION. —This subsection shall not apply to dispositions made after December 31, 2006."

SEC. 2506. SALE OF GASOLINE AND DIESEL FUEL FOR TRANSPORTATION PROVIDED BY Seaplanes.

(a) IN GENERAL. —Clause (ii) of section 426(e)(3)(B) (defining rural airport) is amended by inserting the phrase at the end of clause (ii) "which was taxable" or "ending on, or before, the end of the taxable year after such date," and by replacing at the end the following new flush sentence:

"(I) is not connected by paved roads to an-
other airport."

(b) EFFECTIVE DATE. —The amendment made by this section shall apply to calendar years be-
inning after 2002.

SEC. 2507. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL. —The taxes imposed by sec-
ctions 4261 and 4271 shall not apply to transpor-
tation provided by a seaplane with respect to any seg-
ment consisting of a takeoff from, and a landing on,
water.

(b) EFFECTIVE DATE. —The amendments made by this section shall apply to calendar years be-
inning 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 2003."

(b) FINDINGS. —Congress finds that—

(1) the Government of the Republic of Iraq—

(A) has failed to comply with the terms of United Nations Security Council Resolution 687 (1991), which requires Iraq to accept the installation of international Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear,
chemical and biological weapons and all stocks of agents and all related subcomponents and 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 contravene the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum and 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 surrounding regions;

(c) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian needs in the United States;

(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 to create uncertainty in global energy markets, and therefore 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. 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 President on May 9, 2001, and resubmitted on September 5, 2001, expeditiously.

Attest:
Secretary.

SA 1538. Mr. SUNUNU (for Mr. ROBERTS (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government; the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes; as follows:

On page 14, strike line 4 and all that follows through page 13, line 23.

On page 18, line 17, strike "and the Secretary of Defense shall jointly submit" and insert "shall, in coordination with the Secretary of Defense, submit".

On page 22, between lines 8 and 9, insert the following:

SEC. 317. BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to address funding shortfalls caused by significant increases in the costs of acquisition of major systems by the intelligence community.

(2) While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community.

(b) Authorization.—The submission of such acquisition, particularly in the preliminary stages of development and production.

(3) Decisions by Congress to fund the acquisition of major systems by the intelligence community rely significantly upon initial estimates of the affordability of acquiring such major systems. However, the context in which such funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of such systems place Congress on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

(c) Costs estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

(d) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems will assist the President and Congress in the development and funding of budgets which more accurately reflect the requirements and priorities of the United States Government for intelligence and intelligence-related activities.

SEC. 500A. (a) INDEPENDENT COST ESTIMATES.—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(b) Each independent cost estimate for a major system shall, to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate in each fiscal year of the appropriate period of development, procurement, and operation of the major system.

(b)(1) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(b)(2) The mandatory use throughout the intelligence community of independent cost estimates for the acquisition of major systems by the intelligence community relies significantly upon initial estimates of the affordability of acquiring such major systems. However, the context in which such funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of such systems place Congress on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.
anticipated to be obligated for such major system.

"(4) The independent cost estimate for a major system shall be updated upon—

(A) the completion of any preliminary design review associated with the major system;

(B) any significant modification to the anticipated design of the major system; or

(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under section 1105(a) of title 31, United States Code.

"(a) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the Office of the Deputy Director of Central Intelligence for Community Management an office which shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is made under paragraph (2).

(2) In the case of the acquisition of a major element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate be updated, if necessary, under subsection (a) prepared by an entity jointly designated by the Director and the Secretary in accordance with section 2404(b)(1)(A) of title 10, United States Code.

(3) UTILIZATION IN BUDGETS OF PRESIDENT.—If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the President shall request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriations identified in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

(d) ESTIMATES IN JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress in support of the budget of the President shall include an independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

(e) DEFINITIONS.—In this section—

(1) The term ‘budget of the President’ means the budget of the President for a fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

(2) The term ‘independent cost estimate’ means a pragmatic and neutral analysis, as appropriate, of the costs associated with the development and procurement of a major system, which shall be based on programmatic and technical specifications provided by the office within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

(3) The term ‘major system’ means any significant program of an element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (in current fiscal year dollars), that includes all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.

(c) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 506 the following new item:

'Sec. 506A. Budget treatment of costs of acquisition of major systems by the intelligence community.'.

On page 27, beginning on line 23, strike "The heads of the intelligence community shall jointly submit' and insert "The Director of Central Intelligence shall, in consultation with the heads of the elements of the intelligence community, submit'.

On page 31, strike lines 15 through 20 and insert the following:

(1) The Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(2) the Permanent Select Committee on Intelligence, the Select Committee on Homeland Security, and the Committees on Armed Services and the Judiciary of the House of Representatives.

On page 35, line 21, insert after "shall" the following: "as such consultation with the Secretary of State and the Attorney General as the Director considers appropriate.'.

On page 36, strike line 23 and all that follows through page 37, line 3, and insert the following:

(1) the Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.

On page 37, strike line 24 and all that follows through page 38, line 5.

On page 38, strike lines 9 and 10 and insert the following:

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

On page 39, strike lines 7 through 12.

On page 40, strike lines 14 through 16 and insert the following:

(1) An assessment of the operations of the Directorate and the other elements of the intelligence community, including the sharing of intelligence information through secure information technology connections between the Directorate and the other elements of the intelligence community;

(c) to determine intelligence information, or analyses of intelligence information, to other departments and agencies of the Federal Government and, as appropriate, to State and local governments; and

(E) to access information, including intelligence and law enforcement information, from the departments and agencies of the Federal Government, including the ability to access, in a timely and efficient manner, all information authorized by section 202 of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 122); and

(f) to fulfill, given the current assets and capabilities of the Directorate, the responsibilities set forth in section 201 of the Homeland Security Act of 2002 (6 U.S.C. 122);

(ii) the designation of the responsibilities and duties of the Director of Central Intelligence for the areas in which the responsibilities and duties of the Director and the other elements of the intelligence community.

(3) A delineation of the responsibilities and duties of the Center.

(4) An assessment of whether the areas of overlap, if any, delineated under paragraph (3) represent an inefficient utilization of the limited resources of the Directorate and the other elements of the intelligence community.

(b) APPROPRIATE COMMITTEES OF CONGRESS

On page 49, strike line 25 and all that follows through page 50, line 1, and insert the following:

'Sec. 5318A. REPORT ON OPERATIONS OF DIRECTORATE IN MONEY LAUNDERING CASES.

(1) An assessment of the operations of the Directorate, including the capability of the Directorate—

(A) to meet personnel requirements, including requirements to employ qualified analysts, and the status of efforts to employ qualified analysts;

BC means information with the other elements of the intelligence community, including the sharing of intelligence information through secure information technology connections between the Directorate and the other elements of the intelligence community;

(c) to determine intelligence information, or analyses of intelligence information, to other departments and agencies of the Federal Government and, as appropriate, to State and local governments; and

(D) to coordinate with State and local counterterrorism and law enforcement officials.
“(f) CLASSIFIED INFORMATION.—In any judicial review of a finding of the existence of a primary money laundering concern, or of the requirement for 1 or more special measures with respect to a money laundering concern, made under this section, if the designation or imposition, or both, were based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Secretary to the reviewing court in camera and in camera. This subsection does not confer or imply any right to judicial review of any finding made or required under this section.”.

On page 55, between lines 2 and 3, insert the following:

SEC. 405. CONTRIBUTION BY CENTRAL INTELLIGENCE AGENCY EMPLOYEES OF CERTAIN BONUS PAY TO THRIFT SAVINGS PLAN ACCOUNTS.

(a) CSRS PARTICIPANTS.—Section 8351(d) of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following new paragraph:

“(2)(A) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

“(B) Contributions under this paragraph are subject to section 842(d) of this title.

(b) FERS PARTICIPANTS.—Section 842 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(k)(1) An employee of the Central Intelligence Agency making contributions to the Thrift Savings Fund out of basic pay may also contribute (by direct transfer to the Fund) any part of bonus pay received by the employee as part of the pilot project required by section 402(b) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2403; 50 U.S.C. 403–4 note).

“(2) Contributions under this subsection are subject to subsection (d).

“(3) In subsection (c), basic pay of an employee of the Central Intelligence Agency shall include bonus pay received as part of the pilot project referred to in paragraph (1).”.

On page 74, after line 5, add the following:

SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.— Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004 or 2005, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) TERMINATION OF AUTHORITY.— The authorization provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 557, and 558 of Public Law 107–115, section 8003 of the Defense Appropriations Act, 2002, and the numerical limitations on the number of Streamlined Acquisition Program (SAP) individual civilian contractors in section 2004(b)(1) of Public Law 106–266 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian employees, and civilian contractors employed by the United States will participate in any combat operation in connection with assistance made available under subsection (a), except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 504. SCENE VISUALIZATION TECHNOLOGIES.

Of the amount authorized to be appropriated by this Act, $2,500,000 shall be available for the National Imagery and Mapping Agency (NIMA) for scene visualization technologies.

SA 1539. Mr. SUNUNU (for Mr. HATCH) proposed an amendment to the conference report to S. 1800, to recognize and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month,” and for other purposes; and

On page 68, after line 5, add the following:

SA 1539. Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 3, 2003, at 9:30 a.m., in closed session, to receive a briefing on the work of the Iraq survey group.

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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CORNYN. 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 July 3, 2003, at 9:30 a.m. to conduct a markup of S. 627, the Internet Gambling Prohibition Bill, and H.R. 659, The Hospital Mortgage Insurance Act of 2003.

After the markup, the Committee will meet in open session to conduct a hearing on “Addressing Measures To Enhance the Operation of the Fair Credit Reporting Act.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 31, 2003, at 9:30 a.m., on pending committee business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 31, 2003, at 3 p.m., to hold a subcommittee hearing on corruption in North Korea’s economy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, July 31,
2003, at 10 a.m., for a hearing titled “Terrorism Financing: Originating, Organization, and Prevention.”

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

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet to conduct a markup on Thursday, July 31, 2003, at 10 a.m. in Dirksen Room 226.

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

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a hearing on Thursday, July 31, 2003, at 10:30 a.m. in Dirksen Room 226.

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

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a hearing on Thursday, July 31, 2003, at 2 p.m. in the Dirksen Senate Office building Room 226 on “Department of Justice Oversight: Funding Forensics Sciences—DNA and Beyond.”

Witness List

Panel I: Sarah Hart, Director, National Institute of Justice, U.S. Department of Justice, Washington, DC.
Panel II: Ms. Susan Hart Johns, President, American Society of Crime Lab Directors, Springfield, IL; Dr. Michael Baden, Co-Director, Medicolegal Investigative Unit, New York State Police, New York, NY; Randy Hillman, Esq., Executive Director, Alabama District Attorneys Association, Montgomery, AL; Frank Clark, Esq., District Attorney, Erie County, Buffalo, NY; Peter Neufeld, Esq., Co-Director, Innocence Project, Benjamin N. Cardozo School of Law, New York, NY; and Ms. Rosemary Serra, Victim, New Haven, CT.

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

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a hearing on Thursday, July 31, 2003, at 2:30 p.m. on the Internet Corporation for Assigned Names and Numbers (ICANN). The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that Ken Ende, a fellow with Senator Murkowski’s office, be granted the privilege of the floor for the duration of the consideration of the Energy bill. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that the Committee on Education and Labor be authorized to hold a closed hearing on the Dirksen Senate Office building Room 226 on “President’s Education Umbrella: Fiscal Year 2004.”

Supplemental Appropriations

Ms. MIKULSKI. Mr. President, in a few minutes the Senate will consider the supplemental. I wish to say a few words about the issue around AmeriCorps and other issues within the supplemental. The hour is late, so I will be brief.

The outcome is preordained, but I wish to say the fight will go on. This urgent supplemental does not meet the compelling human needs of the United States. The Senate is about to pass will replenish the urgent need that FEMA has at only 50 percent of what the Federal Emergency Management Agency needs to be ready for the hurricane season. The Senate has said ‘no’ and there is about $900 million included.

The supplemental also will not include money for wildfires razing the West. It will not include the funds to complete the NASA investigation of what went wrong on Columbia, so NASA will have to forage for funds within their agency. It will not include additional money for AmeriCorps.

I have been waiting and willing to compromise to get the emergency funding for AmeriCorps. I was willing to compromise to save the school-based programs that start in September. I knew I could not save the AmeriCorps ship because of the penny-pinching attitude of the House towards AmeriCorps.

I want to be clear that although the House left town with a take-it-or-leave-it attitude and we had to swallow it, the needs of our community will not go away. The fight will not go away, and I will continue in September to fight for the full funding for AmeriCorps, both in an emergency supplemental and even in the way of the Budget Act, if I have to, in order to get the help for America.

AmeriCorps, because of the clumsy and inept headquarters, overenrolled 20,000 volunteers, but we should not punish those volunteers because of the people at headquarters.

In my home State Maryland will lose 400 volunteers. Let me tell you what they are: In rural western Maryland, an AmeriCorps program called Star, in which 34 volunteers participate. They serve 6,000 people, meeting the needs of the counties of Allegany, Garrett, and Washington.

Do you know what they do? They tutor children, they help children to read, and they help them get ready for school. Without these 34 volunteers, over 6,500 people will lose the help they need.

In Baltimore City there are 50 JUMP Start volunteers. These are AmeriCorps volunteers who work in Head Start to make sure the kids get a head start. And they also recruit other volunteers. That means, again, there will be over 400 preschoolers who will not get the help they need.

I could go on in these school-based programs. Nationally, 2,700 volunteers, who go to work in America, will not be able to go and start in September because we are leaving town without AmeriCorps funding.

I thank Senator STEVENS for trying to help on this program. He understood...
the needs we had. He worked very hard with me. I regret we had a take-it-or-leave-it with the House.

Also in Baltimore, we have 40 Notre Dame volunteers. These 40 Notre Dame volunteers help 1,842 children in Baltimore schools. They work in Baltimore schools tutoring children and providing after-school activities to help kids learn and keep them out of trouble.

Notre Dame is a success story of a faith-based organization making a difference for our communities. But without additional AmeriCorps funding, Baltimore will lose 40 Notre Dame volunteers. And 1,842 children in Baltimore will not be tutored or mentored. These are some examples in Maryland. But communities all around the country will be hurt because the House leadership would not approve emergency funding for AmeriCorps.

How did we get here? The leadership of the Senate of Representatives has blocked emergency funding for FEMA disaster relief, fighting wildfires, the NASA Columbia investigation, and AmeriCorps.

The Senate acted quickly on the President’s supplemental request. The Senate approved $1.55 billion for FEMA, $253 million for fighting wildfires, $50 million for the NASA Columbia investigation, and $100 million for AmeriCorps. But the House sent us a supplemental that is totally inadequate. There is only $984 million for FEMA.

At the last minute before recess the House supplemental did not include funding for fighting wildfires, the NASA Columbia investigation, or AmeriCorps. Then, the House left town for the month of August.

In April this year, the Chairman and Ranking Member of the Homeland Security Subcommittee became very concerned about a shortfall of FEMA disaster relief. Senator Coburn and Byrd asked President Bush to request emergency funding for FEMA disaster relief. But the President didn’t request funding until July 7. When he did, the Senate acted quickly.

We passed it within 4 days. The President asked for $1.55 billion and we approved it, But the House only wants to give FEMA $984 million, only 60 percent of what the President says is needed.

We have never let FEMA’s Disaster Relief account fall to such a low level. Right now, FEMA only has $89 million to respond to disasters. It is irresponsible to shortchange FEMA when we are at the height of hurricane season.

The House bill also eliminates funding to help Western states fight wildfires. The President requested $253 million and the Senate approved it.

But the House provided nothing. Right now, there are 42 major fires burning in 12 Western states consuming over 50,000 acres. The Forest Service is $420 million short of what they need to fight these fires, but the House didn’t provide any funding.

The House also eliminates funds to complete the investigation into the loss of the Space Shuttle Columbia. The President requested $50 million. The Senate approved it. This funding is to keep our promises to the families of the astronauts killed. We will find out what went wrong and we will fly again. Without the $50 million NASA will have to borrow from other programs in order to finish the investigation.

The House supplemental does not include funding to save 20,000 AmeriCorps volunteers. I offered the amendment to add $100 million for AmeriCorps to this urgent supplemental. With bipartisan support of Senators Bond, Stevens, and Byrd, others, the AmeriCorps funding was voted on by the full Senate and was sustained by an overwhelming 71 to 21 votes. But the House refused to follow the usual and customary process to resolve differences. The House didn’t want to have a conference. Because a small minority of House members want to scuttle the $100 million for AmeriCorps even though an overwhelming majority of the Senate supports it, a majority of the House supports it, and 45 Governors support it.

I want to give my sincerest thanks to my colleagues in the Senate who supported emergency funding for AmeriCorps. I appreciate it and so do our volunteers and the communities they serve.

How did the AmeriCorps shortfall happen? There was a bureaucratic boondoggle. AmeriCorps overenrolled 20,000 volunteers.

Every year, the VA-HUD subcommittee funds 50,000 AmeriCorps volunteers but AmeriCorps enrolled 70,000.

How did we know about it? Senator Bond chaired the subcommittee leading the fight for reform in fiscal responsibility and uncovered the mismanagement at our April 10 hearing.

We started GAO and IG investigations. We called for a new Chief Financial Officer. I called for new leadership. And we wrote a bipartisan bill to fix the accounting and mismanagement problems.

Our bill passed the Congress in 2 days and was signed into law.

So while the House puts out press releases about how they want to punish volunteers and communities they serve, the Senate puts out performance of this administration. This is an emergency today. The law says funding for volunteers and the awards that help pay off their student debt must be in the Federal checkbook when the volunteers begin their service. Without emergency funding AmeriCorps can’t sign up volunteers now to start in school-based programs in September.

Teach America, for example, will lose education awards for 2,700 volunteers who are going to start teaching in September.

We cannot wait until October for fiscal year 2004 and I won’t wait until October.

I will continue to fight in September for AmeriCorps.

The President has called for a new spirit of voluntarism.

Young people have responded, but the House leadership wants to scorch volunteer opportunities to punish volunteers and communities because of a bureaucratic boondoggle.

Mr. President, it is regrettable that the House leadership won’t resolve differences in the usual and customary way. But I will continue to fight for our communities that need disaster assistance and depend on help from volunteers.

The needs won’t go away and I will continue the fight in September.

I want to reiterate that the need continues. Because the need continues, the fight will go on. I promise every AmeriCorps volunteer, every community that is dependent on those volunteers, and every member of the American family looking to those volunteers, I am going to fight for them and I will stand up for them. I am going to turn to the Senate and say let’s not take what the House says when they give it a take-it-or-leave-it stamp.

I yield the floor.

AMERICORPS

Mr. HARKIN. Mr. President, I am appalled at the House’s refusal to provide needed emergency supplemental funding to AmeriCorps.

There was an editorial in the Wall Street Journal yesterday describing their rationale for the House position. The WSJ says, “the concept of federally subsidized volunteerism strikes us as something the country can’ afford” and “if Congress lacks the nerve to kill AmeriCorps, then we’re glad it at least won’t throw good money after bad.”

The Wall Street Journal can say that this is something the country can’t afford, but I know differently. AmeriCorps is something the country can’t afford to do without.

I will be the first to say that the administration’s mismanagement of funds is disappointing to say the least. It is further upsetting that they are unwilling to put up the money it takes to keep those mistakes from hurting the volunteers.

I am also disappointed that the President promised to promote and grow the program, but is now attempting to put the money to do so. It is really unfair for the President and the House to talk out of both sides of their mouths, supporting volunteerism, but then refusing to pay the comparatively small cost involved in keeping volunteers and communities.

But this is not a problem with AmeriCorps volunteers, or with the communities they serve. Senators Mikulski and Bond in the “Strengthen AmeriCorps Act” are doing the things necessary to prevent future financial discrepancies.

These funding cuts don’t punish those who are guilty for the problems.
These cuts punish volunteers, and communities, and the beneficiaries of the volunteers' work.

In Iowa, AmeriCorps volunteers have improved 30,000 acres of wildlife habitat. They work to improve water quality, to relieve landowners of the burden of soil erosion, they fix trails, they provide interpretive centers, and they work with communities to teach people to do these things year-round on their own.

AmeriCorps volunteers present the Outward Bound challenge course to 300 young people a year. They have opened offices in sixteen counties and provide additional service to 14,000 people per year. The board members are appointed by the President, and they each bring with them a certain background or expertise that benefits the National Peace Corps.

Mrs. HUTCHISON. The most recent AmeriCorps board was comprised of governors, mayors and corporate executives, each of whom brought a unique perspective. A geographically diverse board is crucial to establishing a national rail system. I was very pleased when President Bush appointed David Laney of Texas to the board last year. Earlier this month, Mr. Laney was selected by his fellow board members to serve as chairman of the board.

Mr. CARPER. As a former member of the Amtrak board and Governor of Delaware, I personally understand the importance role that board members play in leading the corporation and I want to thank my colleague for recognizing the special skills that governors bring to such a position. The board’s strong leadership establishes a clear direction for the corporation and provides proper oversight and accountability. In addition, investors and customers can quickly lose confidence in the company and its ability to reinvest and grow. The current board of management has done an excellent job of maintaining a solid and predictable course through particularly uneasy times.

Mr. HOLLINGS. The board members have a formidable responsibility to make sound decisions and investments that will successfully serve both the public and the Amtrak passengers. At this critical juncture, when Amtrak is poised for either salvation or bankruptcy, the work of the board must be continued uninterrupted.

Mr. LAUTENBERG. I fully agree with your concern that the Amtrak board of directors must continue to function even while the board is in the process of being restaffed. Terms of two of the board members, specifically Governor Dukakis and Mayor Smith, will expire on September 24. If no new board members are appointed before September 24, the board will be reduced from seven members to four members. As you know, I am pleased to learn that the board is already exploring measures that can be taken under the corporate laws of the District of Columbia to continue to operate as a board even while it cannot achieve a quorum of members.

Mr. STEVENS. It is good to know that there are other legal avenues that can be followed so that the duties of the Commerce Committee or the Senate will not be suspended indefinitely while candidates are nominated, vetted, and confirmed by Congress. As we all know, Presidential appointments can often be a long and arduous process. However, it is my hope that the Senate will consider the confirmation of Amtrak board members as promptly as possible once we have received candidates from the President. Of course, I would like to acknowledge the work of Mayor Smith of Meridian, MS. He agreed to offer his knowledge and experience to the board, and has served for years as chairman of Amtrak’s board of directors. I am grateful for his dedication to Amtrak and the excellent work he did for the railroad during his term.

Mr. LAUTENBERG. The Senator from Mississippi’s comments about the importance of receiving candidates soon is very true and I hope that the Bush administration will promptly follow the normal procedures of appointments, with the advice and consent of the Senate. The White House has qualified people who are knowledgeable about the complex operations of the Northeast corridor and its critical importance to the entire region.

Mr. CARPER. The Senator from Mississippi’s comments about the importance of receiving candidates soon is very true and I hope that the Bush administration will promptly follow the normal procedures of appointments, with the advice and consent of the Senate. The White House has qualified people who are knowledgeable about the complex operations of the Northeast corridor and its critical importance to the entire region.

Mr. LAUTENBERG. It is good to know that after September 24, there will be no one on the board from the Northeast corridor, which represents over half of Amtrak’s ridership as well as the primary infrastructure owned by the corporation. The board needs to have qualified people who are knowledgeable about the complex operations of the Northeast corridor and its critical importance to the entire region.

Mr. CARPER. It is good to know that after September 24, there will be no one on the board from the Northeast corridor, which represents over half of Amtrak’s ridership as well as the primary infrastructure owned by the corporation. The board needs to have qualified people who are knowledgeable about the complex operations of the Northeast corridor and its critical importance to the entire region.

Mr. LOTT. It is good to know that there are other legal avenues that can be followed so that the duties of the Commerce Committee or the Senate will not be suspended indefinitely while candidates are nominated, vetted, and confirmed by Congress. As we all know, Presidential appointments can often be a long and arduous process. However, it is my hope that the Senate will consider the confirmation of Amtrak board members as promptly as possible once we have received candidates from the President. Of course, I would like to acknowledge the work of Mayor Smith of Meridian, MS. He agreed to offer his knowledge and experience to the board, and has served for years as chairman of Amtrak’s board of directors. I am grateful for his dedication to Amtrak and the excellent work he did for the railroad during his term.

Mr. LAUTENBERG. I fully agree with your concern that the Amtrak board of directors must continue to function even while the board is in the process of being restaffed. Terms of two of the board members, specifically Governor Dukakis and Mayor Smith, will expire on September 24. If no new board members are appointed before September 24, the board will be reduced from seven members to four members. As you know, I am pleased to learn that the board is already exploring measures that can be taken under the corporate laws of the District of Columbia to continue to operate as a board even while it cannot achieve a quorum of members.

Mr. STEVENS. It is good to know that there are other legal avenues that can be followed so that the duties of the Commerce Committee or the Senate will not be suspended indefinitely while candidates are nominated, vetted, and confirmed by Congress. As we all know, Presidential appointments can often be a long and arduous process. However, it is my hope that the Senate will consider the confirmation of Amtrak board members as promptly as possible once we have received candidates from the President. Of course, I would like to acknowledge the work of Mayor Smith of Meridian, MS. He agreed to offer his knowledge and experience to the board, and has served for years as chairman of Amtrak’s board of directors. I am grateful for his dedication to Amtrak and the excellent work he did for the railroad during his term.

Mr. LAUTENBERG. I fully agree with your concern that the Amtrak board of directors must continue to function even while the board is in the process of being restaffed. Terms of two of the board members, specifically Governor Dukakis and Mayor Smith, will expire on September 24. If no new board members are appointed before September 24, the board will be reduced from seven members to four members. As you know, I am pleased to learn that the board is already exploring measures that can be taken under the corporate laws of the District of Columbia to continue to operate as a board even while it cannot achieve a quorum of members.
relief and emergency assistance. It is estimated that the disaster relief fund will exhaust its current funding by the end of July 2003 in part due to higher-than-expected costs for disaster relief, including funding for tornadoes and wildfires. Additional relief sources are needed to continue to provide necessary emergency assistance.

With respect to the firefighting funds requested by the President, I am pleased to announce that we have an agreement with the administration to transfer fire suppression funds to continue our battle against fires, particularly in the West and Alaska. The administration has informed me it remains committed to the President's request for emergency supplemental appropriations for disaster relief and recovery efforts. Their commitment to continue to pursue enactment of the full request when we return in September is paramount to the challenges we face. I ask unanimous consent that the Transfer Strategy statement be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Transfer Strategy

As of July 28, the Forest Service has obligated $304 million for fire suppression, leaving $48 million in remaining balances in the suppression account. Based on this information, the Forest Service will need to transfer between $147 million and $235 million of unobligated available funds from other accounts to pay for fire suppression.

The Administration remains committed to the President's July 3, 2003, request for emergency supplemental appropriations for disaster relief and recovery efforts and will continue to pursue enactment of the full request when Congress returns in September.

The following table illustrates how the Forest Service would likely transfer funds from other accounts to cover the anticipated cost.

<table>
<thead>
<tr>
<th>Account</th>
<th>Transfers to reach $15 M</th>
<th>Transfers to reach $35 M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparedness</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Fuels Reduction</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Land Acquisition</td>
<td>8</td>
<td>65</td>
</tr>
<tr>
<td>Capital Improvement and Maintenance</td>
<td>11</td>
<td>21</td>
</tr>
<tr>
<td>Working Capital Fund</td>
<td>20</td>
<td>50</td>
</tr>
<tr>
<td>National Forest System</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>State and Private Forestry</td>
<td>10</td>
<td>34</td>
</tr>
<tr>
<td>Research and Development</td>
<td>8</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>$147</td>
<td>$235</td>
</tr>
</tbody>
</table>

*Includes Forest Legacy Program.

Mr. BYRD. Mr. President, the Senate now takes up a fiscal year 2003 supplemental appropriations bill in the amount of $983.6 million to replenish the Federal emergency disaster relief fund in the Department of Homeland Security.

These funds are urgently needed. In April of this year, Senator COCHRAN, chairman of the Homeland Security Appropriations Subcommittee, and I, as the ranking member, urged the administration to release funds to shore up a looming shortfall. Now we are told that the disaster relief fund has a balance of $99 million and is expected to be completely exhausted by August 8.

The President finally sent up an emergency supplemental request on July 7 for $1.15 billion to assist recovery efforts in West Virginia and over $300 million for the other disasters the Nation that had been hard hit by severe rains, floods, and tornadoes. It took the Senate Appropriations Committee, under the leadership of Senator TED STEVENS, only 2 days to report out the supplemental, to allocate the amounts for disaster relief. That legislation also included $253 million for fighting 42 major wildfires which have consumed over 400,000 acres in 12 Western States, as well as $50 million for unanticipated costs associated with the recovery and investigation of the Space Shuttle Columbia accident—all requested by the President.

That legislation also included $100 million for the National Park Service to fund necessary funds for fighting wildfires, for investigating the Space Shuttle Columbia investigation, and for the necessary funds for fighting wildfires only in the Western States, nor the funds for the Columbia Shuttle investigation, nor the necessary funds for AmeriCorps for $415 million. According to the latest Department estimates, this funding level for disaster relief isn't even enough to make it to September 30. The House sent to the Senate this stripped-down, stand-alone supplemental for disaster relief on a take-it-or-leave-it basis. This is no way to legislate. The chairman of the Appropriations Committee knows that I am not blaming him. He has been trying energetically to engage the House to accept the necessary funds for fighting wildfires for the NASA shuttle investigation, and for the AmeriCorps shortfall. However, the House leadership and its allies in the White House have refused to help. They have turned a deaf ear to the needs of the firefighters in the Western States, the requirements of the NASA investigation, and the 20,000 AmeriCorps volunteers who are expecting to embark on a program of work in the middle of school year to help our children learn reading and math, providing care to our senior citizens, cleaning up our parks, and other valuable volunteer services to our communities.

All of these funds are urgently needed, and none are more urgently needed than the funding for disaster relief.

I am advised that, because of the lateness of the administration's request, FEMA has already stopped making payments to States for $400 million of infrastructure repairs in the 300 communities with outstanding natural disasters. Communities have already been forced to put projects for repairing damage from past disasters on hold.

In my State of West Virginia, for example, I am told that payments for projects have not been made since February of this year almost 6 months ago. The President has yet to sign a $983.6 million request for disaster relief fund payments. Of this amount, $7 million is owed for payments for repairs to dams, sewers, and public buildings, and $3 million is owed to reimburse the State of West Virginia for hazard mitigation, including acquisition and demolition of properties in floodplains and for relocating structures.

In McDowell County, WV, for example, FEMA owes the county $103.7 million to help McDowell County to acquire 64 structures that were substantially damaged or demolished in the January 2002 flood.

In the town of Welch, WV, FEMA owes $250,000 for a sewer project already completed by the county. The town is unable to pay the contractor for the work, which could result in a lawsuit.

A similar situation obtains in the city of Bradshaw, West Virginia, the State conservation agency would not be able to perform its work. The problems exist all across the country. We cannot wait any longer. We must approve this urgent legislation. However, because of the intransigence of the other body, we will be acting, regrettably, without providing the necessary funds for fighting wildfires, for investigating the Space Shuttle Columbia accident, or for the shortfall in the AmeriCorps program.

Once again, the President has failed to follow through on his promise. This legislation is $566 million below the administration's budget request for disaster relief. It is $50 million less than the administration's budget request for NASA. It is $289 million less than the administration's budget request for fighting wildfires. It includes no funds for the shortfall in AmeriCorps—a program the administration claims it supports.

President's failure to engage the House leadership in support of these funds, the President's silence speaks volumes. It is the same old administration theme of rhetoric without resources.
Mr. COCHRAN. Mr. President, it is imperative that the Senate act on this measure now. The Department of Homeland Security’s Emergency Preparedness and Response disaster relief fund has been depleted to a dangerously low level. This is due to nearly $300 million in unexpected expenses related to the Shuttle Columbia disaster recovery effort, and another $200 million because of the tornadoes and floods that have affected many States this year.

On July 7, 2003, the President submitted an emergency supplemental request to Congress totaling $1.9 billion. Emergency supplemental appropriations fully funding the President’s request are included in the Senate-passed fiscal year 2004 Legislative Branch Appropriations Act. However, the House approved for the Department of Homeland Security’s Emergency Preparedness and Response disaster relief fund only $983.6 million. Not only does this bill not meet the needs of wildland fire management and NASA, but it does not include all that is needed in the Emergency Preparedness and Response disaster relief fund. The House bill is not sufficient to meet the needs for disaster relief outlined by the President in his request.

I received from my state’s Emergency Management Agency a specific request that illustrates why this supplemental is needed now. I ask unanimous consent that a copy of the letter from Robert Latham, Jr., Executive Director, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:


Senator Thad Cochran, Chairman, U.S. Senate Appropriations Subcommittee on Commerce, Justice, State, Senate Office Building, Washington, DC.

Dear Senator Cochran: The shortage of funds in the current disaster relief account is placing serious financial hardships on the communities in our state. The State of Mississippi has experienced 8 presidential disasters in 2½ years. As a result 79 of our 82 counties have been declared disaster areas by the President during this short period of time. Because of 2 previous open disasters, Mississippi now has 10 open disasters.

Currently the federal obligation for Public Assistance under these open disasters is over $31.5 million. These funds are critical to the rebuilding of critical infrastructure such as public buildings, roads, bridges, and schools in our cities and counties. In addition to this, we currently have in excess of $5 million in emergency funds designated to mitigate the effects of future disasters on our communities. We also have over $7 million in mitigation projects awaiting submission pending the availability of funds in the federal disaster relief account.

The State of Mississippi and its communities continue to incur a tremendous amount of unanticipated costs that must be reimbursed in accordance with the FEMA-State Agreement. Adequate funding of the federal disaster relief account is critical to rebuilding communities and providing the services that our citizens expect and deserve. The federal government has a professional and moral responsibility to fulfill its financial obligation to assist the state and its communities in this recovery process. I appreciate your assistance in this matter and urge you to request Congress to move quickly on this issue. As always, please do not hesitate to contact me if I can be of any assistance to you or your staff.

Sincerely,

Robert R. Latham, Jr., Executive Director.

Mrs. CLINTON. Mr. President, last Friday, on July 25, just as it was preparing to leave town and recess, the House of Representatives sent to the Senate an emergency supplemental appropriations bill that fails to meet the needs that have been outlined by the President and by the majority of Members of the House and the Senate. I rise to express my profound disappointment with the House leadership for their action. It put the Senate in the objectionable position of having to adopt or reject the House version because any effort to amend that bill would delay urgently needed aid.

The House-passed bill includes only $984 million for disaster emergency spending, even though the President requested $1.55 billion for disaster relief and emergency assistance. These funds are needed to cover the unexpected costs of the winter storms, as well as tornadoes and hurricanes which are affecting Texas and other southern States. Just last week we saw the streets of Denver flooded so high, cars were floating in the streets.

The House bill also leaves out $289 million to fight fires in the West even though this is proving to be one of the driest seasons on record. At this time there are 45 large fires burning in the West, a total of almost 400,000 acres of active wildfires. If they continue to rage, these fires will take more lives, lose the last in the west alone, and ruin homes and even communities.

How are these communities, which are already facing extraordinary costs in a generation, to cover these costs without any Federal assistance?

The House bill also neglects to provide $50 million for the National Aeronautics and Space Administration to cover unanticipated costs associated with the Shuttle Columbia accident and to allow NASA to begin to implement measures recommended by the Columbia Accident Investigation Board. The President requested these funds and I urge the Senate to provide them.

When the Columbia space shuttle accident occurred, it devastated our Nation, reminding us that we cannot become complacent about space travel. Let us at least learn from this accident and ensure that it never happens again by implementing the recommendations of the accident board.

Of most concern to me and to the New Yorkers I represent, the House bill fails to include $300 million for AmeriCorps—emergency spending that the Senate passed overwhelmingly by a vote of 71 to 21 July 11. This funding is not only supported by the vast majority of Senators, it is also strongly supported by the majority of House Members. Two hundred and thirty four Representatives from both sides of the aisle signed letters to the President requesting additional funds for AmeriCorps.

In addition to Members of Congress, the Governors have weighed in to support AmeriCorps. Forty-four Governors including Governor Bush from Florida, Governor Taft from Ohio, and Governor Pataki from my home State of New York sent a letter to the President and Congress asking for additional funding for AmeriCorps.

Over 145 U.S. mayors, including the mayors of Los Angeles, Chicago, Boston, San Diego, and New York, have sent letters in support of additional funding for AmeriCorps. One hundred and ninety college and university presidents have signed a letter in support of additional funding for AmeriCorps.

Two hundred and fifty business and philanthropic leaders took out full page ads in the New York Times and the Financial Times asking the President to request $200 million in additional AmeriCorps funding.

One thousand eleven hundred and eight community-based programs that relay on AmeriCorps to meet their community’s vital needs have also sent a letter to Congress about their support for this funding and I ask unanimous consent to print that letter into the Record now as well.

Seventy-one editorials have appeared in newspapers from coast to coast endorsing the additional funds for AmeriCorps and calling on Congress to act to prevent programs from being forced to close and prevent thousands of young people from being denied the opportunity to serve.

So how do we account for this outpouring of support?

Mr. President, I submit that it is for the simple reason that AmeriCorps works. For the price of a small grant towards higher education and a small living stipend, AmeriCorps volunteers transform communities. They fill the vital gaps that otherwise would go unfilled and in the process, they make the future brighter for themselves and so many others in our society.

Sister Mary Johnice, who runs a shelter in Buffalo, described the impact AmeriCorps has had on her organization at a recent event, “AmeriCorps forms a team of workers, hard workers, who make a difference in other people’s lives. They are selfless, outstanding and sacrificial, never counting the cost of what they do and whom they serve.”

She went on to describe how Buffalo has come to count on AmeriCorps members during difficult times. “Everyone knows when snow hits the City of Buffalo, although it’s a beautiful sight, the city can be paralyzed,” said Sister Johnice. She has worked with AmeriCorps to pack thousands of food bags, and deliver heavy packages of food to the homeless.
AmeriCorps workers walk miles for a prescription a new mother needed after having a baby. I looked at workers shoveling snow for hours so emergency vehicles could move. And I witnessed faith and love in action...lives touched.

Quincy Calimese, a young man from the Bronx said that AmeriCorps has changed his life. “I was waking up at two o'clock every day,” he said. “I had nothing to do so I run the streets, try to be the big baddest person on the block, meanwhile getting others to do the same. Now I'm asleep by ten o'clock and up every morning at seven o'clock. I'm not running the streets and I try to motivate others to do the right thing, especially the younger kids. Mostly now I'm focused on my future as an architect and staying out of trouble. I spend a lot of time in the house, and now I'm reading, something I used to think was boring. I like how simple my life has become. No more worries, no more watching my back everywhere I go.”

If the $100 million are not approved, programs like the ones Sister J ohnice runs and the one Quincy Calimese participated in will be devastated.

National programs with proven records of success like CityYear, Teach for America, and Jumpstart will lose more than half of their sites. Jumpstart, which today serves 2,500 children, including 900 in New York City, may have to close every one of its New York sites. This poster shows the progress of a shy little boy who, through the help of Jumpstart members, is now able to write his name. His is on the path to a successful future thanks to AmeriCorps.

President Bush himself said of this program, “I want you to know, America can be saved one person at a time. We know the program has a history of success since the 1960s, and the decisions of the Senate and the House in 2002 and 2003. We are turning out in record numbers to volunteer and to support our communities.”

AmeriCorps is also integral to reducing the achievement gap between students living in high-poverty communities and their better off peers. Teach for America is an AmeriCorps program that recruits extremely talented and bright college graduates to teach in America's neediest schools. Last year 16,000 college seniors with average GPAs of 3.5 and average SATs of 1300 applied to teach. Only 1,700 of them were selected. The majority of these students plan to pursue advanced degrees in education, devoting their careers to improving educational outcomes for low-income students. I am proud that the largest Teach for America corps in the country is in New York City. But I am deeply concerned about the number who will choose not to join the program after they learn that their education awards will not be forthcoming.

Mr. President, this is not a partisan issue. I just organized a letter in support of providing $3 million for Teach for America in April, 9 Republicans and 10 Democrats signed on. This program has strong bipartisan support. So, why will only 16 percent of Teach for America members receive education awards this year?

How did all of these programs, which have such overwhelming support, get to the point where they need an additional $100 million or they will go out of business?

Well, we have to look at the history. Yes, there was mismanagement by Corporation officials. The inspector general's report revealed that for a long time the Corporation was enrolling more volunteers than it had the resources to support. But Congress has not helped the situation. In 2000 and 2001, believing that the National Service Trust was not solvent, Congress appropriated nothing for the trust, leaving it to rely on the interest it was accruing from previously appropriated funds. At the time, it seemed like the right thing to do. And an independent analysis from KPMG LLP confirmed that the National Service Trust was solvent. How could Congress have foreseen the tragic events of September 11 and the President's Call to Service for every American?

Nevertheless, they occurred. And the response to the President's call was overwhelming. Twenty-five percent more volunteers enrolled in AmeriCorps in the year after he made his announcement. Should we have rescinded the funds from the trust? Probably. Should we have appropriated more for the trust in 2002? Yes. Should the President have acted sooner to ensure that the Corporation was allocating the correct number of volunteers, based on the resources it had at its disposal? Yes, I believe so. Should Corporation officials have been less accommodating to Americans who rose to meet the President's call to service? I suppose so.

But here we are today. And we have to act in the best interest of our Nation.

I believe we should reward the thousands of young people who signed up to serve their communities. They are not at fault for the misjudgment of the Corporation officials. Yet they are the ones who will be punished if we take the House's lead here today.

President Bush proposed to increase AmeriCorps by 50 percent. Instead it is being cut by 20 percent. This is not what the President claims to want. It is not what the majority of the Senate wants. It is not what the majority of the House wants. It is not what most Governors want. It is not what most mayors want. It is not what most community leaders want. And it is not what most business leaders want.

I know we can do better for AmeriCorps, which has been such a lifeline for so many communities across New York and America.

Today is a tragic day for AmeriCorps. It is a day when we are giving pink slips to 20,000 dedicated Americans who want to serve their communities. We are telling them that their service is no longer needed. I hope that we can find a way to do better by AmeriCorps when we return in September.

Mr. Nelson of Florida, Mr. President, I am proud to live in a country where so many citizens volunteer their time to serve their Nation. The United States has always had a strong tradition of volunteerism.

And my pride is bolstered by a surge in participation at volunteer organizations—including AmeriCorps—since the September 11 terrorist attacks.

Our Nation depends on such volunteer organizations to provide crucial community services. For example, AmeriCorps enlists the help of our Nation's youth to tutor and mentor children, build affordable housing, teach computer skills, clean parks and streams, run afterschool programs and help respond to disasters in communities that wouldn't otherwise have such services.

At a time when our Nation's youth are turning out in record numbers to volunteer and our communities are facing new crises, you would think that Congress would make funding for our national service programs a high priority. But it has done the opposite. Before they left town last week, the Republican-controlled House rebuffed attempts to provide $10 million for the program. As a result, AmeriCorps will drop 20,000 of its 50,000 volunteer slots this year.

This dramatic downsizing during times of tough economic times will deprive communities of needed help, and young volunteers of a small stipend they need to pay for college or student loans.

We know the program has a history of mismanagement—and those problems are being fixed. In fact, the President this month announced an overhaul of the agency's management.

But the mistakes of a few at the top shouldn't jeopardize the opportunities for young volunteers or the communities that rely on the services they provide.

There is no questioning the essential role AmeriCorps plays in helping communities and promoting volunteerism in America. In order for volunteers to make the greatest possible impact on society, we must continue our support for this and other national service programs.

I hope when we return in September, we can provide AmeriCorps the support it needs to put our Nation's eager recruits to work in communities that depend on their help.
MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2000

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate immediately proceed to H.R. 2859, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I ask unanimous consent that the acting majority leader modify his request to include an amendment which provides $20 million for air marshaling training, $229 million for the emergency firefighting and wildfire suppression, $100 million for AmeriCorps, $50 million for the Space Shuttle Columbia accident, the remaining $567 million for FEMA, which is now part of the House-passed bill.

This is the supplemental which passed in the Senate, except for the $20 million for air marshaling training which has now been recognized as a need of great importance, especially within the last few weeks.

I ask unanimous consent that the request made by the distinguished Senator from New Hampshire be modified. The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, while I very much appreciate what the minority leader is attempting to do in his concern for funding in these areas, I object to his request at this time.

The PRESIDING OFFICER. Agreement is not reached. Objection is heard.

Mr. SUNUNU. Mr. President, I have a pending unanimous consent request that the Senate proceed to H.R. 2859, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (H.R. 2859) was read the third time and passed, the matter being placed on the record.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate’s action, and the Senate return to legislative session.

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

The nominations were considered and confirmed as follows:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
Stanley C. Suboleski, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring April 27, 2006. (Reappointment)

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
W. Scott Ralston, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2007. (Reappointment)

DEPARTMENT OF TRANSPORTATION
Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration, resigned.

DEPARTMENT OF JUSTICE
Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice, (New Position)
Karen P. Tandy, of Virginia, to be Administrator of Drug Enforcement.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Eric S. Dreiband, of Virginia, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008. (Reappointment)

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2009. (Reappointment)

DEPARTMENT OF DEFENSE
Lawrence M. Niles, of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 30, 2009.

AIR FORCE
The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

Brigadier General Kenneth M. DeCuire, to be major general
Brigadier General Bob D. Dunlap, to be general
Brigadier General Robert J. Elder, to be general
Brigadier General Paul J. Fletcher, to be general
Brigadier General Doug Alexander, to be general
Brigadier General William M. Fraser, to be general
Brigadier General Stanley Gorenc, to be general
Brigadier General Elizabeth A. Harrell, to be general
Brigadier General William F. Hodgkins, to be general
Brigadier General Raymond E. Johns, to be general
Brigadier General Timothy C. Jones, to be general
Brigadier General Frank G. Klotz, to be general
Brigadier General Robert H. Latiff, to be general
Brigadier General Richard Lewis, to be general
Brigadier General Henry A. Obering, to be general
Brigadier General Michael W. Peterson, to be general
Brigadier General Teresa M. Peterson, to be general
Brigadier General Gregory H. Power, to be general
Brigadier General Robert L. Smolen, to be general
Brigadier General Mark A. Volchek, to be general

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 6304 and 6305.

Lt. Gen. Teed M. Moseley, to be general

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Gen. Gregory S. Martin, to be general

The following named United States Air Force officer for reappointment as the Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 152.

Gen. Richard B. Myers, to be general

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Maj. Gen. Roger A. Brady, to be lieutenant general

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Lt. Gen. Richard E. Brown, to be lieutenant general

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Lt. Gen. Steven R. Polk, to be lieutenant general

ARMY
The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 688, 601 and 3033.

Gen. Peter J. Schoomaker (Retired), to be general

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Lt. Gen. Bryan D. Brown, to be general
The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

Col. Charles S. Rodeheaver, 9930

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

Tobias G. Evans, 7426

To be general

Gen. Peter Pace, 7426

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and 154:

Col. Charles S. Rodeheaver, 9930

The following named officer for appointment as the Vice Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601.

Brig. Gen. David T. Zabecki, 9488

MARINE CORPS

The following named Marine Corps officer for reappointment as the Vice Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and 154:

Col. Charles S. Rodeheaver, 9930

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

Tobias G. Evans, 7426

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and 154:

Col. Charles S. Rodeheaver, 9930
Class of Minister-Counselor, to be Ambassador to the Federal Republic of Nigeria.

George H. Walker, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

Nomination of Karen Tandy

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Karen Tandy to be Administrator of the Drug Enforcement Administration.

According to the DEA website, the top two DEA responsibilities are the following:

Investigation and preparation for the prosecution of major violators of controlled substances at international and state levels; and investigation and preparation for prosecution of criminals and drug gangs who perpetrate violence in our communities and terrorize citizens through fear and intimidation.

Why, then, does the DEA continue to focus its limited resources on the question of medical marijuana?

Over the past seven years, ten States have passed referendum or enacted laws authorizing medical marijuana in those States. The ten States are Alaska, Arizona, California, Colorado, Hawaii, Maine, Maryland, Nevada, Oregon, and Washington.

The States also have states was California. In 1996, voters in California passed the California Compassionate Use Act, also known as Proposition 215, to allow seriously ill people who have a doctor’s recommendation to cultivate and use marijuana as a form of treatment.

However, in 2001, the Drug Enforcement Administration began aggressively targeting medical marijuana providers in California—regardless of the fact that these individuals were complying with state law.

I understand that the Supreme Court has ruled that federal law does not provide for a “medical necessity” exception to the prohibition on the distribution of marijuana, and that the DEA therefore has the right to enforce federal laws regarding marijuana.

However, especially given the DEA’s own stated priorities and limited resources, is it appropriate for the DEA to focus on medical marijuana?

This is the question I asked Ms. Tandy, and she did not back off an inch. She simply did not give us any room to work in terms of this issue.

For example, I asked if she would be willing to support a moratorium on the raids of medical marijuana providers until Congress could hold hearings on this matter.

She replied, “If I am confirmed as Administrator of the DEA, it will be my duty to see to the uniform enforcement of federal law. I do not believe it would be consistent with that duty for me to support a moratorium on enforcement of this law, or any law, in selected areas of the country.”

Let me be clear. I was not asking for a moratorium on the enforcement of all marijuana laws—only on the raids of these medical marijuana providers who are complying with State law.

I also was not asking for an endless moratorium—just the opportunity for Congress to exercise its oversight role of the Drug Enforcement Administration.

Yet she was unwilling to budge. Why are these so-called criminals that the DEA is targeting and arresting?

Suzanne Pfell is 42 years old and suffers from post-polio syndrome. She experiences extreme pain and muscle spasms. She is opioid tolerant and does not tolerate many pharmaceutical drugs, so her physician recommended medical marijuana, in accordance with California state law. Here, in her own words, is what happened to her last September.

At dawn on September 5, 2002, I awoke to five federal agents pointing assault rifles at my head. I did not hear them come in because my respirator is rather loud.

They yelled at me to put my hands in the air and to stand up “NOW.” I tried to explain to them that I needed to put my hands down on the bed in order to sit up because I am paralyzed. They told me that I had to stand up.

I pointed to my crutches and braces beside the bed and said, “I’m sorry, I can’t stand up without my crutches and braces and I need my wheelchair.”

At that point they ripped the covers off the bed and finally realized what I was trying to explain amid their shouts and guns. They handcuffed me behind my back and left me on the bed.

The DEA then proceeded to confiscate medication recommended to me by my physician under California State Law Proposition 215. My crime? I am a member of WAMM, The Women’s Alliance for Medical Marijuana.

Eighty-five percent of the patients in this organization are terminally ill with cancer or AIDS. Is this how the DEA’s mission is to be fulfilled?

In another case, the City of Oakland, and its Police Chief, William Lansdowne, pulled five officers from a DEA High Intensity Drug Trafficking Area task force.

In doing so, Chief Lansdowne said, “I think the priorities are out of sync at the federal level . . . The problem in California right now is meth-amphetamines, not medical marijuana.”

In order for the DEA to be successful in its efforts to target major drug traffickers and drug gangs, it must have the cooperation of local law enforcement agencies.

This is yet another reason why the raids of medical marijuana providers must end.

Finally, I would like to address the debate regarding the potential medicinal benefit of marijuana.

I am not a doctor or a medical professional. However, the following organizations have endorsed supervised access to medical marijuana: The AIDS Healthcare Foundation, the American Academy of Family Physicians, the American Nurses Association, the American Preventative Medical Association, the American Public Health Association, Kaiser Permanente, and the New England Journal of Medicine.

In 1999, the Institute of Medicine issued a report entitled “Marijuana and Medicine: Assessing the Science Base.” This report, authorized by the White House Office of National Drug Control Policy, stated, “Nausea, appetite loss, pain, and anxiety are all affections of wasting, and all can be mitigated by marijuana.”

Their statement said, “In this trial, the prosecution was allowed to put all of the evidence and testimony on one of the scales, while the defense was not allowed to put its evidence and testimony on the other side. Therefore we were not allowed as a jury to properly weigh the case.”

During the sentencing phase of the trial, nine of the twelve jurors asked that Mr. Rosenthal not be imprisoned because they had convicted him “without having all the evidence.”

Due to these unique circumstances, the judge sentenced Rosenthal to one day in prison and a $1,000 fine, the most lenient sentence allowed under law.

Yet, the prosecutor, who had asked for a six-and-a-half-year sentence, has appealed this sentence.

The San Francisco Examiner has called this a “mean-spirited attempt to revive a losing case [and] is only throwing good money after bad.”

I think that accurately describes not only the prosecution’s latest appeal, but the DEA’s campaign against medical marijuana as a whole.

These raids of medical marijuana facilities are also creating tension between the DEA and local law enforcement agencies.

In California, several cities are pushing their local police to stop cooperating with the DEA.

Most notably, in October 2002, San Jose Police Chief William Lansdowne pulled his five officers from a DEA High Intensity Drug Trafficking Area task force.

In California, several cities are pushing their local police to stop cooperating with the DEA.

Most notably, in October 2002, San Jose Police Chief William Lansdowne pulled his five officers from a DEA High Intensity Drug Trafficking Area task force.

In doing so, Chief Lansdowne said, “I think the priorities are out of sync at the federal level . . . The problem in California right now is meth-amphetamines, not medical marijuana.”

In order for the DEA to be successful in its efforts to target major drug traffickers and drug gangs, it must have the cooperation of local law enforcement agencies.

This is yet another reason why the raids of medical marijuana providers must end.

Finally, I would like to address the debate regarding the potential medicinal benefit of marijuana.

I am not a doctor or a medical professional. However, the following organizations have endorsed supervised access to medical marijuana: The AIDS Healthcare Foundation, the American Academy of Family Physicians, the American Nurses Association, the American Preventative Medical Association, the American Public Health Association, Kaiser Permanente, and the New England Journal of Medicine.

In 1999, the Institute of Medicine issued a report entitled “Marijuana and Medicine: Assessing the Science Base.” This report, authorized by the White House Office of National Drug Control Policy, stated, “Nausea, appetite loss, pain, and anxiety are all affections of wasting, and all can be mitigated by marijuana.”
Furthermore, the following international agencies have recommended the use of medical marijuana: the Canadian government, the British Medical Association, the French Ministry of Health, the Israel Health Ministry, and the Australian National Task Force on Cannabis.

Even the DEA has registered eight researchers to further examine the possible medicinal benefits of smoking marijuana.

This obviously is an ongoing debate. The citizens and legislatures of ten states have spoken. I believe the DEA should suspend its raids of medical marijuana providers in these states and place such efforts at the bottom of its list of priorities.

Since Ms. Tandy is unwilling to yield at all on this point, I respectfully oppose her nomination.

LEGISLATIVE SESSION
The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

STATE CHILDREN’S HEALTH INSURANCE PROGRAM
Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2854.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (H.R. 2854) to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2003 under the State Children’s Health Insurance Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2854) was read the third time and passed.

SOCIAL SECURITY ACT AMENDMENT
Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1547 introduced earlier today by Senators BINGAMAN and DOMENICI.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (S. 1547) to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The bill (S. 1547) was read the third time and passed as follows:
S. 1547
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2003
Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2465.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (H.R. 2465) to extend for six months the period for which chapter 12 of title 11 the United States Code is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 2465) was read the third time and passed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004
Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, S. 1025.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:
A bill (S. 1025) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Intelligence, with amendments, as follows:

[Strike the parts shown in black brackets and insert the part shown in italic.]
S. 1025
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2004.”
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SECTION I—INTELLIGENCE ACTIVITIES
Sec. 101. Authorization of appropriations.
Sec. 102. Intelligence Community Management Account.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Intelligence Community Management Account.
Sec. 105. Incorporation of reporting requirements.
Sec. 106. Preparation and submittal of reports, rules, regulations, and plans relating to intelligence activities of Department of Defense or Department of Energy.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM
Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS
Subtitle A—Recurring General Provisions
Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.

Subtitle B—Intelligence
Sec. 311. Modification of authority to obligate and expend certain funds for intelligence activities.
Sec. 312. Modification of notice and wait requirements on projects to construct or improve intelligence community facilities.
Sec. 313. Use of funds for counterdrug and counterterrorism activities for Colombia.
Sec. 314. Pilot program on analysis of signals and other intelligence by intelligence analysts of various elements of the intelligence community.
Sec. 315. Pilot program on training for intelligence analysts.
Sec. 316. Extension of National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.

Subtitle C—Surveillance

Subtitle D—Reports
Sec. 331. Report on cleared insider threat to classified computer networks.
Sec. 333. Report on details of civilian intelligence personnel among elements of the intelligence community and the Department of Defense.
Sec. 334. Report on modifications of policy and law on classified information to facilitate sharing of information for national security purposes.
Sec. 335. Report of Secretary of Defense and Director of Central Intelligence on strategic planning.
Sec. 336. Report on United States dependence on computer hardware and software manufactured overseas.
Sec. 337. Report on lessons learned from military operations in Iraq.
Sec. 338. Reports on conventional weapons and ammunition obtained by Iraq in violation of certain United Nations Security Council resolutions of the United Nations Security Council shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of one year for the performance of temporary functions as required by the Director of Central Intelligence.

Sec. 351. Extension of suspension of reorganization of Diplomatic Telecommunications Service Program Office.

Sec. 352. Modification of authorities upon the formation of a new office or organization.

Sec. 353. Modification of prohibition on the militarization of certain persons.


Sec. 355. Coordination of Federal Government research on security evaluations.

Sec. 356. Technical amendments.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Amendment to certain Central Intelligence Agency Act of 1949 notification requirements.

Sec. 402. Protection of certain Central Intelligence Agency personnel from tort liability.

Sec. 403. Repeal of obsolete limitation on authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorized Personnel Levels referred to in section 102(b) of the National Security Act of 1947 (50 U.S.C. 403-3). In addition to amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorized Personnel Levels referred to in section 102(b) of the National Security Act of 1947 (50 U.S.C. 403-3).


TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

Sec. 501. Protection of operational files of the National Security Agency.

Sec. 502. Provision of affordable living quarters for certain students working at National Security Agency laboratory.

Sec. 503. Protection of certain National Security Agency personnel from tort liability.

Sec. 504. Authority for intelligence community elements of Department of Defense to award personal service contracts.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The National Reconnaissance Office.
(12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.

The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2004, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorized Personnel Levels referred to in section 102(b) of the National Security Act of 1947 (50 U.S.C. 403-3).

(b) AUTHORIZATION OF PERSONNEL.

In addition to the personnel authorized by subsection (a) for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a).

(c) AUTHORIZATION OF PERSONNEL.

In addition to the personnel authorized by subsection (a) for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2004 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a).

(d) AUTHORIZATION OF PERSONNEL.

Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2006, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorized Personnel Levels referred to in section 102(b) of the National Security Act of 1947 (50 U.S.C. 403-3).

(e) NATIONAL DRUG INTELLIGENCE CENTER.

(1) IN GENERAL. Of the amount authorized to be appropriated in subsection (a), $37,090,000 shall be available for the National Drug Intelligence Center.

(f) CONGRESSIONAL INTELLIGENCE COMMITTEES.

(1) AUTHORITY. Notwithstanding any other provision of law, the General Counsel shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 103. PERSONNEL ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.

With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may employ personnel in excess of the number authorized for fiscal year 2004 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized for fiscal year 2004 under section 102 shall not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.

The Director of Central Intelligence shall promptly notify the Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives whenever the Director exercises the authority granted by this section.
submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committee on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2004 the sum of $226,400,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Awards authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary to increase the compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authority of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

Subtitle B—Intelligence

SEC. 311. MODIFICATION OF AUTHORITY TO OBTAIN, EXPEND CERTAIN FUNDS FOR INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) by inserting “and” at the end of subparagraph (A); and

(2) by redesignating subparagraph (B) as subparagraph (C).

SEC. 312. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT OR IMPROVE INTELLIGENCE COMMUNITY FACILITIES.

(a) INCREASE OF THRESHOLDS FOR NOTICE.—Subsection (a) of section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103–359; 108 Stat. 3432; 50 U.S.C. 1806 note) is amended—

(1) by striking “$750,000” each place it appears and inserting “$5,000,000”; and

(2) by striking “$1,000,000” each place it appears and inserting “$1,000,000.”

(b) NOTICE AND WAIT REQUIREMENTS FOR EMERGENCY PROJECTS.—Subsection (b)(2) of that section is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting “(A)” after “(2) REPORT.—”;

(3) by striking “21-day period” and inserting “7-day period”; and

(4) by adding at the end the following new subparagraph:

“(B) Notwithstanding subparagraph (A), a project referred to in paragraph (1) may begin on the 7th day if it is determined by the appropriate committees of Congress under that paragraph if the Director of Central Intelligence and the Secretary of Defense determine that—

(i) an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and

(ii) the delay in the commencement of the project would harm any or all of those interests.”.

SEC. 313. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORIZATION.—The funds appropriated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal year 2004, and any amounts made available to any element of the intelligence community for such activities for a prior fiscal year, shall be available—

(1) to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia, the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)); and

(2) to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107–113, section 8093 of the Department of Defense Appropriations Act, 2002, and the other provisions of law enforcing the limitation of the number of United States military personnel and United States individual civilian contractors in section 2004(b)(1) of Public Law 106–246 shall be applicable to the same extent and in the same manner as applicable to the United States Armed Forces personnel or United States civilian contractors employed by the United States.

SEC. 314. PILOT PROGRAM ON ANALYSIS OF SIGNALS INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—The Director of Central Intelligence shall carry out a pilot program to assess the feasibility and advisability of permitting the intelligence community to pool various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

(b) COVERED INTELLIGENCE.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

(1) Signals intelligence of the National Security Agency;

(2) Such intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program;

(c) OBJECTIVES.—The objectives set forth in this subsection are as follows:

(1) To enhance the capacity of the intelligence community to undertake so-called ‘all source’ analysis in support of the intelligence and intelligence-related missions of the intelligence community.

(2) To reduce, to the extent practicable, the adverse impact selected by the intelligence community that is not assessed, or reviewed, by intelligence analysts.
of the current computer security practices of the elements of the intelligence community and of the Department of Defense.

(b) ASSESSMENTS.—The report under subsection (a) shall include an assessment of the following:

(1) The vulnerability of the computers and computer systems of the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that permit unsupervised upload or downloading of classified information, set forth by level of classification.

(3) An estimate of the number of individuals utilizing such computers or computer systems who have access to input-output devices on such computers or computer systems.

(4) A description of the policies and procedures governing the security of the access referred to in paragraph (1), and an assessment of the adequacy of such policies and procedures.

(5) An assessment of viability of utilizing other technologies (including so-called ‘‘thin client servers’’) to achieve enhanced security of such computer and computer networks through more rigorous control of access to such computers and computer systems.

(d) RECOMMENDATIONS.—The report under subsection (a) shall also include such recommendations for modifications or improvements of the current security background investigations and security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(2) The standards governing the revocation of security clearances.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(b) PARTICULAR REPORT MATTERS.—In preparing the report, the State of the Select Committee on Intelligence and the Secretary shall address in particular the following:

(1) A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting field background investigations.

(2) The standards governing the revocation of security clearances.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(b) PARTICULAR REPORT MATTERS.—In preparing the report, the State of the Select Committee on Intelligence and the Secretary shall address in particular the following:

(1) A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting field background investigations.

(2) The standards governing the revocation of security clearances.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.

(b) PARTICULAR REPORT MATTERS.—In preparing the report, the State of the Select Committee on Intelligence and the Secretary shall address in particular the following:

(1) A comparison of the costs and benefits of conducting background investigations for Secret clearance with the costs and benefits of conducting field background investigations.

(2) The standards governing the revocation of security clearances.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include such recommendations for modifications or improvements of the current security background investigations or security clearance procedures of the Federal Government in meeting the purposes of such investigations and procedures.
(B) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

(2) The term "elements of the intelligence community" means the elements of the intelligence community set forth in or designated under section 3(4) of the National Security Act of 1947, as amended.

(3) The term "heads of the elements of the intelligence community" includes the Secretary of Defense with respect to each element of the intelligence community within the Department of Defense or the military departments.

SEC. 334. REPORT ON MODIFICATIONS OF POLICY AND APPROPRIATIONS CLASSEd INFORMATION TO FACILITATE SHARING OF INFORMATION FOR NATIONAL SECURITY ACTIVITIES

(a) REPORT.—Not later than four months after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report that—

(1) identifies impediments in current policy and regulations to the sharing of classified information horizontally across and among Federal departments and agencies, and between Federal departments and agencies and vertically to and from agencies of State and local governments and the private sector, for national security purposes, including homeland security; and

(2) proposes appropriate modifications of policy, law, and regulations to eliminate such impediments in order to facilitate such sharing of classified information for homeland security purposes, including homeland security; and

(3) outlines a plan of action (including appropriate milestones and funding) to establish the Integrated National Information Infrastructure Center as called for in the Information on the State of the Union given by the President to Congress under section 3 of Article II of the Constitution of the United States in 2003.

(b) CONSIDERATIONS.—In preparing the report under subsection (a), the President shall—

(1) consider the extent to which the reliance on a document-based approach to the protection of classified information impedes the sharing of classified information; and

(2) propose a method for the implementation of a database-based approach, or other electronic approach, to the protection of classified information that might facilitate the sharing of classified information.

(2) CONSIDERATION OF INFORMATION SHARING ACTIVITIES.—In preparing the report under subsection (a), the President shall, to the maximum extent practicable, take into account actions being undertaken under the Homeland Security Information Sharing Act (subtitle I of title VIII of Public Law 107–296, 116 Stat. 2252 et seq.).

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 335. REPORT OF SECRETARY OF DEFENSE AND DIRECTOR OF CENTRAL INTELLIGENCE ON STRATEGIC PLANNING

(a) REPORT.—Not later than February 15, 2004, the Secretary of Defense and the Director of Central Intelligence shall submit to the appropriate committees of Congress a report that assesses progress in the following:

(1) The development by the Department of Defense and the intelligence community of a comprehensive and uniform analytical capability to assess the utility and advisability of various sensor and platform architectures and capabilities for the collection of intelligence; and

(2) The improvement of coordination between the Department and the intelligence community on strategic and budgetary planning.

(b) FORM.—The report under subsection (a) may be submitted in classified form.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 336. REPORT ON UNITED STATES DEPENDENCE ON COMPUTER HARDWARE AND SOFTWARE MANUFACTURED OVERSEAS.

(a) REPORT.—Not later than February 15, 2004, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the extent of United States dependence on computer hardware or software that is manufactured overseas.

(b) FORM.—The report under subsection (a) shall address the following:

(1) The extent to which the United States currently deploys computer hardware or software that is manufactured overseas;

(2) The extent to which United States dependence on such computer hardware or software is increasing;

(3) The vulnerabilities of the national security and economy of the United States as a result of United States dependence on such computer hardware or software; and

(4) Any other matters relating to United States dependence on such computer hardware or software that the Director considers appropriate.

(c) CONSULTATION WITH PRIVATE SECTOR.—In preparing the report under subsection (a), the Director may consult, and is encouraged to consult, with appropriate persons and entities in the computer hardware or software industry and with other appropriate persons and entities in the private sector.

(d) FORM.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 337. REPORT ON LESSONS LEARNED FROM MILITARY OPERATIONS IN IRAQ

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the intelligence lessons learned as a result of Operation Iraqi Freedom.

(b) REQUIREMENTS.—The report under subsection (a) shall include such recommendations on means of improving training, equipment, operations, coordination, and collection of foreign intelligence as the Director considers appropriate.

(c) FORM.—The report under subsection (a) shall be submitted in classified form.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 338. REPORTS ON CONVENTIONAL WEAPONS AND AMMUNITION OBTAINED BY IRAQ IN VIOLATION OF CERTAIN UNITED NATIONS SECURITY COUNCIL RESOLUTIONS

(a) PRELIMINARY REPORT.—Not later than 120 days after the date of the cessation of hostilities in Iraq (as determined by the President), the Director of the Defense Intelligence Agency shall submit to the appropriate committees of Congress a preliminary report on all information obtained by the Department of Defense or the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in August 1990.

(b) FINAL REPORT.—(1) Not later than 270 days after the date of the cessation of hostilities in Iraq (as so determined), the Director shall submit to the appropriate committees of Congress a final report on the information described in subsection (a).

(2) The final report under paragraph (1) shall include such updates of the preliminary report under subsection (a) as the Director considers appropriate.

(c) ELEMENTS.—Each report under this section shall set forth, to the extent practicable, with respect to each shipment of weapons or ammunition addressed in such report, the following:

(1) The country of origin.

(2) Any country of transshipment.

(d) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committee on Armed Services of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives.

SEC. 339. REPEAL OF CERTAIN REPORT REQUIREMENTS RELATING TO INTELLIGENCE ACTIVITIES

(a) ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF INTELLIGENCE COMMUNITY.—Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended by striking subsection (d).

(b) PERIODIC AND SPORADIC REPORTS ON DISCLOSURE OF INTELLIGENCE INFORMATION TO UNITED NATIONS.—Section 112 of the National Security Act of 1947 (50 U.S.C. 403g) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) ANNUAL REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH COUNTERDRUG ACTIVITIES.—Section 114 of the National Security Act of 1947 (50 U.S.C. 403–7) is amended—

(1) by redesigning subsections (a) through (d) as subsections (a) through (e), respectively.

(d) ANNUAL REPORT ON RUSSIAN NUCLEAR FACILITIES AND FORCES.—Section 114 of the National Security Act of 1947 (50 U.S.C. 403–7), as amended by subsection (c) of this section, is further amended—

(1) by striking subsection (a); and

(2) by redesigning subsections (b) through (e) as subsections (a) through (d), respectively.

(e) ANNUAL REPORT ON COVERT OPERATIONS.—Section 114 of the National Security Act of 1947, as amended by this section, is further amended—
(1) by striking subsection (c); and
(2) by striking subsection (d).

Section 351. Extension of suspension of reorganization of diplomatic telecommunication service program office.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108) is amended by striking "two-year" before "suspension of reorganization"; and

Section 312 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 108-70) is amended by striking "75 percent" and inserting "70 percent".

Subtitle E—Other Matters

Section 352. Modifications of authorities on explosive materials.

(a) Clarification of aliens authorized to distribute explosive materials—Section 842(d)(7) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;
(2) in subparagraph (B)—
(A) by inserting "or" at the end of clause (i); and
(B) by striking clauses (iii) and (iv); and
(3) by adding the following new subparagraphs:
"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transportation, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or
"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;"

(b) Clarification of aliens authorized to receive explosive materials—Section 842(a)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;
(2) in subparagraph (B)—
(A) by inserting "or" at the end of clause (i); and
(B) by striking clauses (iii) and (iv); and
(3) by adding the following new subparagraphs:
"(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transportation, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or
"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;"

(c) Advisory group. (1) In order to assist the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transportation, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or
"(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;"

(2) The advisory group shall be composed of the following:
(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation and the Office of Science and Technology Policy.
(B) A representative of the Office of Science and Technology Policy.
(C) The Secretary of Defense, or a designee of the Secretary.

SEC. 353. Modification of prohibition on handling classified information.


(1) in section 1114 (12 U.S.C. 3401(1)), by inserting "except as provided in section 1114," before "means any office;" and
(2) in section 1114 (12 U.S.C. 3404), by adding at the end of subsection (a) the following paragraph:
"(C) For purposes of this section, the term "financial institution" has the same meaning as in section 5312(a)(2) of title 31, United States Code, except that, for purposes of this section, such term shall include only such a financial institution any part of which is located inside any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the United States Virgin Islands.".

SEC. 354. Coordination of federal government research on security evaluations.

(a) Workshops for coordination of research activities—The National Science Foundation and the Office of Science and Technology Policy shall jointly sponsor not less than two workshops on the coordination of Federal government research on the use of behavioral, psychological, and physiological assessments of individuals in the conduct of security evaluations.

(b) Deadline for completion of activities.—The activities of the workshops sponsored under subsection (a) shall be completed not later than March 1, 2004.

(c) The purposes of the workshops sponsored under subsection (a) are as follows:

(1) To provide a forum for cataloging and coordinating federally-funded research activities relating to the development of new techniques in the behavioral, psychological, or physiological assessment of individuals to be used in security evaluations.

(2) To develop a research agenda for the Federal Government on behavioral, psychological, and physiological assessments of individuals including an assessment of the research most likely to advance the understanding of the use of such assessments of individuals in security evaluations.

(3) To distinguish between short-term and long-term areas of research on behavioral, psychological, and physiological assessments of individuals in order maximize the utility of short-term and long-term research on such assessments.

(4) To identify the Federal agencies best suited to support research on behavioral, psychological, and physiological assessments of individuals.

(5) To develop recommendations for coordinating future federally-funded research for implementation, improvement, or enhancement of security evaluations.

(d) Advisory group.—(1) In order to assist the National Science Foundation and the Office of Science and Technology Policy in carrying out the activities of the workshops sponsored under subsection (a), there is hereby established an interagency advisory group with respect to such workshops.

(2) The advisory group shall be composed of the following:
(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation.
(B) A representative of the Office of Science and Technology Policy.
(C) The Secretary of Defense, or a designee of the Secretary.

SEC. 355. Transportation of classified information.

Section 303 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–103) is amended by striking subsection (e).

Section 540C of title 18, United States Code, is amended by striking subsection (e).

Section 309A of title 50, United States Code, is amended by striking the item relating to section 603.

Section 1611 of title 10, United States Code, is amended by striking paragraph (6);

Section 101(a), as so amended, is redesignated as subparagraph (A); and

(2) by redesigning paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(i) Annual report on foreign assistance for terminated intelligence employees.—Section 1611 of title 10, United States Code, is amended by striking subsection (e).


(iii) Annual report on coordination of counterintelligence matters with FBI.—Section 13 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–332; 50 U.S.C. 402a(c)) is amended—

(1) by striking paragraph (6); and
(2) by redesigning paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(iv) Annual report on intelligence activities of the National Security Agency.—Section 313(e)(4) of the Immigration and Naturalization Act (8 U.S.C. 1322(a)(4)) is amended—

(1) by inserting "when Department of Defense activities are relevant to the determination" after "Secretary of Defense;" and
(2) by inserting "and the Secretary of Homeland Security" after "Attorney General."
(D) The Secretary of State, or a designee of the Secretary.
(E) The Attorney General, or a designee of the Attorney General.
(F) The Secretary of Energy, or a designee of the Secretary.
(G) The Secretary of Homeland Security, or a designee of the Secretary.
(H) The Director of Central Intelligence, or a designee of the Director.

(1) The Director of the Federal Bureau of Investigation, or a designee of the Director.

(2) The National Counterintelligence Executive, or a designee of the National Counterintelligence Executive.

(3) Any other official assigned to the advisory group by the President for purposes of this section.

(3) The members of the advisory group under subparagraphs (A) and (B) of paragraph (2) shall jointly head the advisory group.

(4) The advisory group shall provide the Foundation and the Office such information, advice, and assistance with respect to the workshops sponsored under subsection (a) as the advisory group considers appropriate.

(5) Paragraph (1) shall not be treated as an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(6) REPORT.—Not later than March 1, 2004, the National Science Foundation and the Office of Science and Technology Policy shall jointly prepare a report on the results of activities of the workshops sponsored under subsection (a), including the findings and recommendations of the Foundation and the Office as a result of such activities.

(7) FUNDING.—(1) Of the amount authorized to be appropriated for the Intelligence Community Account under section 104(a), $50,000 shall be available to the National Science Foundation and the Office of Science and Technology Policy to carry out this section.

(2) The amount authorized to be appropriated by paragraph (1) shall remain available until expended.

SEC. 356. TECHNICAL AMENDMENTS.

(a) NATIONAL SECURITY ACT OF 1947.—Subsection (c)(1) of section 112 of the National Security Act of 1947, as redesignated by section 202(a)(1) of the Central Intelligence Agency Act of 1994 (50 U.S.C. 403(c)(6)), and inserting "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403(c)(7))"; and

(b) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 3(c)(7) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by striking "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403(c)(7))"; and

(c) NATIONAL SECURITY AGENCY ACT OF 1959.—Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in subsection (a)(1), by striking "special policemen of the General Services Administration" and inserting "police officer designated by the Director to the coordination of the Director of Central Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(I) (A) United States citizens or aliens lawfully admitted for temporary residence who have requested information on themselves concerning the coordination of the Director of Central Intelligence, may exempt operational files of the National Security Agency (hereafter in this section referred to as ‘NSA’) which document the means by which foreign intelligence or counterintelligence is obtained through恒信技术.

(B) Files which are the sole repository of disseminated intelligence not operated.

(C) The specific subject matter of an investigation by any of the following for any reason:

(i) The Department of Justice.

(ii) The Select Committee on Intelligence of the House of Representatives.

(iii) The Select Committee on Intelligence of the Senate.

(iv) The Committee of Intelligence of the House of Representatives.

(v) The Committee of Intelligence of the Senate.

(3) In this subsection, the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code.

SEC. 404. TECHNICAL AMENDMENT TO FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.

Section 3535(b)(1) of title 44, United States Code, as added by section 101(b)(1) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-105), and section 3545(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E-Government Act of 2002 (Public Law 107-347), are each amended by inserting ‘or any other law’ after ‘1978’.

TITLES V—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting sections 105C and 105D to the end of title VII and redesigning section 105D as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by section (a), is further redesignated by adding at the end the following new section:

‘‘OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

‘‘SEC. 756. PROTECTION OF OPERATIONAL FILES.

‘‘(A) Notwithstanding any other provisions of law, Agency personnel designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapter 171 of title 28, United States Code, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

(I) protect an individual in the presence of such Agency personnel from a crime of violence;

(II) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(III) prevent the escape of any individual who is in the presence of such Agency personnel reasonably believe to have committed a crime of violence in the presence of such Agency personnel.

‘‘(B) In carrying out the authority of the Attorney General under section 2679(d)(1) of title 28, United States Code, in the presence of such Agency personnel, the Attorney General may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

‘‘(C) The specific subject matter of an investigation by any of the following for any reason:

(I) The Permanent Select Committee on Intelligence of the House of Representatives.

(II) The Select Committee on Intelligence of the Senate.

(III) The Intelligence Oversight Board.

(IV) The Department of Justice.

(V) The Office of General Counsel of NSA.
(vii) The Office of the Director of NSA.

(2) A files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

(b) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

(c) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

(d) Records from exempted operational files shall be disseminated to the extent referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be subject to search and review.

(e) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004, and which specifically cites and repeals or modifies such provisions.

(f)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NSA, such information shall be examined ex parte, in camera by the court.

(ii) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

(iii) When a complainant alleges that requested records are improperly withheld because of improper exemption of exempted operational files, NSA shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files contain records that are not exempted under paragraph (1) and that containable records currently perform the functions set forth in paragraph (2).

(iv) The court may not order NSA to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes NSA's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

(v) In proceedings under clauses (iii) and (iv), the complainant shall have discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rule 36.

(vi) If the court finds under this paragraph that NSA has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files and make such records, or portions thereof, available in accordance with the provisions of section 552 of the United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(vii) If at any time following the filing of a complaint pursuant to this paragraph NSA does not agree to make exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

(b)(1) Decennial Review of Exempted Operational Files.—(i) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from a category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

(ii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be examined ex parte, in camera by the court.

(iii) The court shall order NSA to search and review the content of the exempted operational files from search, review, publication, or disclosure.

(iv) The Department of Justice shall be the exclusive remedy for failure to comply with this subsection.

Sec. 705. Protection of operational files of the National Security Agency.

SEC. 501. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) CONSOLIDATION OF CURRENT PROVISIONS ON PROTECTION OF OPERATIONAL FILES.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by transferring sections 105C and 105D to title VII and redesignating such sections, as so transferred, as sections 703 and 704, respectively.

(b) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of such Act, as amended by subsection (a), is further amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

"SEC. 705. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) Operational files of the National Security Agency (hereafter in this section referred to as 'NSA') may be exempted by the Director of NSA, in coordination with the Director of Central Intelligence, from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

(2) In this section, the term 'operational files' means—

(A) files of the Signals Intelligence Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through technical or non-technical means;

(B) files of the Research Associate Directorate, and its successor organizations, which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems;

(C) files which are the sole repository of disseminated and its successor organizations which have been accessed into NSA Archives, or its successor organizations, are not operational files.

(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

(B) any special activity the existence of which is not exempted under the provisions of section 552 of title 5, United States Code;

(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

(4) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

(5) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(6) The Intelligence Oversight Board.

(7) The Office of the Inspector General of NSA.

(8) The Office of the Director of Central Intelligence Agency.

"(b) by striking the items relating to title VII, and inserting—

"TITLE VII—PROTECTION OF OPERATIONAL FILES"

(1) The section heading for section 701 of such Act is amended to read as follows:

"PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY"

(2) The section heading for section 702 of such Act is amended to read as follows:

"CENTENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES."

"CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended—

(1) by striking the items relating to sections 105C and 105D of title 5, United States Code, and inserting the following new items:

"T O TITLE VII—PROTECTION OF OPERATIONAL FILES

Sec. 701. Protection of operational files of the Central Intelligence Agency.

Sec. 702. Decennial review of exempted Central Intelligence Agency operational files.

Sec. 703. Protection of operational files of the National Imagery and Mapping Agency.

Sec. 704. Protection of operational files of the National Reconnaissance Office.

Sec. 705. Protection of operational files of the National Security Agency.
[vii] The Office of the Director of NSA.

(iv)(A) Files that are not exempted under paragraph (1) which contain information de-

deniated or disseminated from exempted operational files shall be subject to search and review.

(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemptions set forth in subparagraph (a) of the ex-

(v) The Director of Central Intelligence before submission to the court.

(2) Any information filed with, or produced for the court pursuant to clauses (i) and (ii) shall be coordinated with the Director of

The court shall dismiss the claim based upon such

Section 11 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end the following new sub-

Paragraph (1) shall not affect the authorities of the Attorney General under section

105C and 105D; and

In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursu-

(c) CONFORMING AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking "For purposes of this title" and inserting "In this section and section 702:";

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by adding at the end the following new sentence:

"October 15, 1984.");

The title heading for title VII of such Act is amended to read as follows:

(1) The title heading for title VII of such Act is amended to read as follows:

1. Above the title, SEC. 704. AUTHORITY FOR INTELLIGENCE COMMUNITY EXPENDITURE OF DEFENSE TO AWARD PERSONAL SERVICE CONTRACTS. is added.

(1) AUTHORITY.—Notwithstanding any other provision of law or regulation, or otherwise made available to a covered component of the Department of Defense, such contracts may also be used for personal service contracts necessary to carry out the mission of the covered component, including personal services without regard to limitations on types of persons to be employed.

(C) Prevent the escape of any individual who has suffered or who is threatened with bodily harm;

(C) prevent the escape of any individual whom such agency personnel reasonably believe to have committed a crime of violence;

In this section, "crime of violence" has the meaning given that term in section 16 of title 18, United States Code.

Section 1210 of title 18, United States Code, is amended by adding at the end the following new sub-

Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NSA has with-

The provisions of title VII are enacted after the date of the enactment of this title.

(2) Section 702(a)(4)(B) of title 5, United States Code, by making a determination to remove such exemptions.

The Director of Central Intelligence must approve any determination to remove such exemptions.

The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject mat-

The court shall dismiss the claim based upon such

Such contracts may be expended for personal service con-

such agency personnel from a crime of violence;

Based upon personal knowledge or otherwise ad-

The court may not order NSA to review any information from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be sub-

Such contracts may be expended for personal service con-

Such contracts may also be used for personal service contracts necessary to carry out the mission of the covered component, including personal services without regard to limitations on types of persons to be employed.

"The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemptions set forth in subparagraph (a) of the exempted operational files for the requested records, the court shall dismiss the claim based upon such complaint.

"When any information filed with, or produced for the court pursuant to clauses (i) and (ii) shall be coordinated with the Director of

"Any information filed with, or produced for the court pursuant to clauses (i) and (ii) shall be coordinated with the Director of

The court may not order NSA to review any information from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1), and which have been returned to exempted operational files for sole retention shall be sub-

Such contracts may also be used for personal service contracts necessary to carry out the mission of the covered component, including personal services without regard to limitations on types of persons to be employed.

"Any information filed with, or produced for the court pursuant to clauses (i) and (ii) shall be coordinated with the Director of

1. Mr. ROBERTS. Mr. President, I am pleased to appear before my colleagues to support early Senate passage of the fiscal year 2004 intelligence authorization bill. This is a good bill, crafted with the unique bipartisan process used for over a quarter century by the Senate Intelligence Committee.

No bipartisan effort can be effective without good personal cooperation.
have received such cooperation from my friend and colleague, the distinguished Vice Chairman, Senator ROCKEFELLER. It is a privilege to be working with him on these important national security issues.

This bill will serve our Nation’s security interests during a time of troubling international conflict. I would like to review a few of the bill’s significant provisions and some of the difficult budget choices which the Intelligence Committee will face.

The version of our bill which Senators are considering reflects changes which the Armed Services Committee made to the bill on sequential referral. The Intelligence Committees and Armed Services Committee reconciled differences in the bills amicably and professionally, with the equities of both committees in mind.

The unclassified fiscal year 2004 intelligence authorization bill contains reasonable new management and national security authorities for the intelligence community.

For example, section 311 will give the intelligence community additional flexibility to act quickly to meet higher priority needs by eliminating the “unforeseen requirements” criterion for reprogrammings.

Section 312 of the bill accounts for increased construction costs by raising (but not eliminating) the thresholds for notification to Congress on certain intelligence community construction and renovation projects and by shortening or removing the waiting period for beginning construction.

Section 315 would set up a program to cultivate and encourage college students to become intelligence analysts. Good analysts do not grow on trees. As the intelligence community fights the war on terrorism and on emergent or emerging threats, good language and area specialists are more important than ever.

The bill also creates a series of “one-time” reporting requirements in critical areas. If not addressed, these reports will form the basis for committee efforts to address the concerns outlined in the report of the joint inquiry into the attacks of September 11. For example, we require reports on the following topics:

The threat that cleared insiders like Robert Hanssen pose to the National Security Agency; the adequacy of life support for military and foreign personnel assigned to the intelligence community; the adequacy of law enforcement and Diplomatic Security Service officers’ protective details; and the adequacy of law enforcement and Diplomatic Security Service officers’ protective details.

The intelligence community is tasked with ensuring the Nation’s defense against threats of terrorism. In this bill, the committee tries to emphasize programs which begin to address some of the shortfalls. In the reported bill, we have included some highly technical provisions.

Title V of the bill contains provisions related to intelligence community elements residing in DOD. Section 501 of the bill will exempt certain National Security Agency operational files from disclosure under the Freedom of Information Act and is identical to the provision recently approved by the Senate in the Defense Authorization Bill. Section 503 allows designated NSA security officers to carry firearms while on official duty to protect NSA employees and property in the U.S.

This provision would provide virtually identical protections to those in Section 402 for CIA security protective officers.

Turning to the budget, when we began to review the President’s fiscal year 2004 request, I became very concerned at the recent growth in intelligence funding. That is the sad reality of this budget. The intelligence community is stretched thin, with far more requirements than available funds. Too many projects and activities have been started that cannot be accommodated in the budget.

There is clearly not enough money in future years to fully fund the intelligence programs in this year’s budget request. There is much need for further review of the intelligence programs in this year’s budget request. That is the sad reality of this budget. The intelligence community is stretched thin, with far more requirements than available funds. Too many projects and activities have been started that cannot be accommodated in the budget. It does not address what caused this problem. The problem exists.

A significant issue that must be addressed by the executive branch is the manner in which cost estimates for the procurement of major intelligence community systems are conducted. The magnitude and consistency in the cost growth on recent acquisitions indicates a systemic intelligence community bias to underestimate the cost of major systems. This “perceived affordability” creates difficulties in the out years as the National Foreign Intelligence Program becomes burdened with content that is no longer affordable.

This underestimation of future costs has resulted in significant reshuffling of the NFIP to meet emerging shortfalls.

In closing, we have vetted and prepared a managers’ amendment that reflects a number of additional technical changes which Senator ROCKEFELLER and I recommend for Senate passage in this bill. We have included some highly technical corrections to the bill and have worked to address concerns expressed by Members. I was pleased to support the committee’s attempt to relieve the intelligence community from burdensome and dated reporting requirements. We have also added several substantive provisions, based on suggestions from the Administration and further investigation by the committee staff. Our amendments would:

- Create a one-time report to examine the analytic arm of the Department of Homeland Security and the interaction between the Department and the Terrorist Threat Integration Center (TTIC); require the preparation and submission of independent
cost estimates to accompany budget requests for major systems acquisitions over $500,000,000, and require the preparation of budgets consistent with these estimates; help prevent money laundering by ensuring ex parte and in camera review by the President of classified information used to identify jurisdictions, institutions, transactions, and accounts that are of primary money laundering concern; and
permit Central Intelligence Agency employees in the compensation reform pilot program to continue benefits under the Thrift Savings Plan—added incentive for exceptional performers.

The committee staff and I will provide any member additional information concerning any of the provisions or programs in the intelligence bill. Again, I urge my colleagues to support the bill.

Mr. ROCKEFELLER. Mr. President, I am pleased to join the distinguished chairman of the Select Committee on Intelligence in presenting S. 1025, the proposed Intelligence Authorization Act for fiscal year 2004, which will begin on October 1, 2003. I would like to join the chairman in noting the bipartisan manner in which the committee approached the intelligence work, and congratulate him for his leadership in maintaining that tradition.

The bill has two main functions.

First, the bill authorizes the appropriation of funds for the intelligence and intelligence-related activities of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the FBI, and other intelligence elements of the U.S. Government. For the first time, the intelligence component of the Department of Homeland Security is included in the annual intelligence authorization. The actual appropriation of funds, of course, must be made in separate appropriation legislation that will follow, will be set by this authorization legislation.

Second, the bill establishes or amends legal authority for the intelligence community or directs the preparation of reports by the Director of Central Intelligence or heads of components of the intelligence community.

The classified nature of United States intelligence activities prevents us from disclosing publicly the details of our budgetary recommendations. Accordingly, nearly all our budgetary recommendations are included in a classified annex. The annex is available to all Members of the Senate, either at the Intelligence Committee or S–407 in the Capitol.

Ten years ago this November, I joined a majority of Senate colleagues in voting to express the sense of Congress that the aggregate amount requested, authorized, and spent for intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner. The House opposed the provision.

I continue to believe we should find a means, consistent with national security, of sharing with the American taxpayer information about the total amount, although not the details, of our intelligence spending. One reason is illustrated by this year's intelligence authorization report in the House. The intelligence community estimated that the U.S. intelligence community has been recovering from cutbacks in budgets, personnel, and capabilities that followed the cold war. But how can the American people know, in a timely way, not years later, where the cutbacks are? How can they make their opinions known unless the President and Congress give them basic information on the overall size of the intelligence budget? Further, in holding the intelligence community accountable for performance, citizens should know the Nation's overall investment in intelligence.

We are on the threshold of important decisions about the future of the U.S. intelligence community. Last week's report of the congressional intelligence committees has shed additional light on major problems of U.S. intelligence before the terrorist attacks of September 11. As it works toward its final report next year, the independent Commission on Terrorist Attacks Upon the United States, building on the foundation laid by the joint inquiry, will be adding information and insights. And the Senate and House Intelligence Committees each are in the midst of extensive examinations of U.S. intelligence on Iraq.

It is fair to say, I believe, that rarely before have we had as much information about the performance of U.S. intelligence. With that knowledge comes a responsibility, for the intelligence committees, Congress as a whole, the intelligence community, and the President, to complete the improvements that the facts show are required. But we do not have the luxury to wait for thorough examinations of Al-Qaida and other terrorist organizations cannot be expected to take a holiday while additional studies are done, and so we must take critical initial steps now.

The need for improving information sharing and the need for enhancing intelligence community analyses were high among the recommendations of the joint 911 inquiry.

Last November, the Congress took a key step in improving information sharing in establishing, in the Department of Homeland Security, a Director for Information Analysis and Infrastructure Protection. Last month, on the favorable recommendation of our committee, the Senate confirmed retired Marine Corps General Frank Libutti to be Under Secretary in charge of that Directorate. As set forth in the Homeland Security Act, he is to have access to law enforcement, intelligence information, and other information from the State and local agencies, and is to integrate that information to identify terrorist threats to the U.S. homeland. The President took a further and somewhat different step in integrating threat information, in ordering this past January the establishment of a Terrorist Threat Integration Center under the Director of Central Intelligence.

The successful integration of terrorism information—including ensuring that terrorism threat matters do not fall between a crack between the Homeland Security Directorate established by Congress and the Center established by the President, is a great organizational challenge facing the intelligence community this year. Our managers' amendment calls for a comprehensive report on the operations of the Homeland Security Directorate and the Terrorist Threat Integration Center. The Congress should use that information as a basis for vigorous oversight and further legislation if needed.

Our need to integrate information is not limited to terrorism threats. It extends across the spectrum of U.S. intelligence. To that end, section 314 directs the Director of Central Intelligence to carry out a pilot program on the advisability of permitting the analysis of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community. Our bill requires that the program include National Security Agency signals intelligence, but also authorizes the Director of Central Intelligence to extend it to other intelligence units. The program is to enhance the intelligence community's capability for "all source" analysis in support of its functions. The Director of Central Intelligence and the Secretary of Defense are to assess the pilot program and report to Congress.

Another provision, section 334, will start a process for determining a further and somewhat different step in increasing the responsibility of the intelligence community this year. Our bill requires that the program include National Security Agency signals intelligence, but also authorizes the Director of Central Intelligence to extend it to other intelligence units. The program is to enhance the intelligence community's capability for "all source" analysis in support of its functions. The Director of Central Intelligence and the Secretary of Defense are to assess the pilot program and report to Congress.

Another provision, section 315 directs the Director of Central Intelligence to carry out a pilot program on the feasibility and advisability of preparing selected students, through a program similar to the Department of Defense's Reserve Officers' Training Corps, for employment as intelligence officers.

Greater integration in the intelligence community is an imperative that goes beyond information sharing and analysis. Another long-term objective of this bill, set forth in section 335, is to improve coordination between the Department of Defense and the intelligence community concerning strategic and budgetary planning. With the growing importance of intelligence to military operations, the Department of Defense does not fall between a crack between the intelligence community this year. Our managers' amendment calls for a comprehensive report on the operations of the Homeland Security Directorate and the Terrorist Threat Integration Center. The Congress should use that information as a basis for vigorous oversight and further legislation if needed.
Three sections of our bill address important information security and counterintelligence issues. Section 331 addresses the danger posed by disloyal cleared insiders who have access to vulnerable computers and computer systems, as exemplified in the Brian Regan and Robert Hanssen espionage cases. The bill directs the submission of a report by the Director of Central Intelligence and the Secretary of Defense which describes in detail what steps are being taken to eliminate these threats, including any budget requirements to address shortfalls.

Section 332 calls for a report on security clearance procedures in the Federal Government. Our report notes that most publicly known instances of foreign espionage in the United States have involved persons who legitimately obtained clearances before deciding to betray our country. The committee has identified as a subject for assessment, the risk of disloyal persons obtaining security clearance and after clearance. We need to learn from the experience of past betrayals. Accordingly, the committee is asking that a joint report of the Director of Central Intelligence and Secretary of Defense be submitted. The committee recommends that background investigations might in the future be better targeted to historically verifiable counterintelligence vulnerabilities.

Section 333 addresses a further security vulnerability, namely, the extent of the dependence of the United States on computer hardware or software manufactured overseas. Our report notes that most leading suppliers of hardware and software to the United States are countries that the FBI indicates are engaged in economic espionage against us. Section 333 would direct the Director of Central Intelligence to submit a report to assist Congress in developing policies that address this vulnerability.

Finally, I would like to make an observation about our committee's future work on intelligence legislation. There are important issues identified by the joint 9/11 inquiry, including fundamental ones about the leadership of the intelligence community, that must be on our agenda for future action.

The joint inquiry recommended that Congress establish a Director of National Intelligence who, in addition to being the President's principal adviser on intelligence, shall have the management, budgetary, and personnel powers needed to make the entire U.S. intelligence community operate as a coherent whole. The joint inquiry recommended that in order to ensure this leadership, Congress should require:

- that no person may simultaneously serve as both the Director of National Intelligence and as CIA Director or as the director of any other specific intelligence agency.
- that the Senate be privileged to cosponsor, that includes Senator Feinstein's bill as part of a comprehensive measure to implement the recommendations of the joint inquiry.

Our Committee's present bill is a good development in this regard, that we should be considering in the time ahead. I urge both the passage of the intelligence authorization bill as well as renewal of our commitment to work together on the continuing task of improving our intelligence community.

Mr. President, I ask unanimous consent that the Armed Services Committee amendments be agreed to and considered as original text for the purpose of further amendment; that the managers' amendment be agreed to; that the bill, as amended, be read a third time; that the Senate then proceed to Calendar No. 184, H.R. 2417, the House companion, that all after the enacting clause be stricken and the text of the S. 1025, as amended, be inserted, be read a third time and passed, the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

In addition, I ask unanimous consent that the Senate insist upon its amendments and request a conference with the House.

I ask unanimous consent that the Chair be authorized to appoint conference from the Armed Services Committee in the ratio of 1 to 1 for matters that fall within their jurisdiction.

Further, I ask consent that S. 1025 be returned to the calendar.

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

The committee amendments were agreed to.

The amendment (No. 1538) was agreed to. The amendment (No. 1538) was agreed to. The amendment (No. 1538) was agreed to.

The amendment (No. 1538) was agreed to. The amendment (No. 1538) was agreed to. The amendment (No. 1538) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 1025), as amended, was read the third time.

The bill (H.R. 2417), as amended, was read the third time and passed, as follows:

H.R. 2417

Resolved, That the bill from the House of Representatives (H.R. 2417) entitled "An Act to authorize appropriations for fiscal year 2004 for intelligence and related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE: TABLE OF CONTENTS.**

(a) **Short Title—**This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2004".

(b) **Table of Contents—**The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

T I T L E I — I N T E L L E C T U A L A C T I V I T I E S 

Sec. 101. Authorization of appropriations.
Sec. 352. Modifications of authorities on explo- 

sive materials.

Sec. 353. Modification of prohibition on the 
naturalization of certain persons.

Sec. 354. Modification of definition of financial 
institution in the Right to Fina- 

cial Privacy Act.

Sec. 355. Coordination of Federal Government 
research on security evaluations.

Sec. 356. Technical amendments.

Sec. 357. Treatment of classified information in 
key-laundering cases.

TITLE IV—CENTRAL INTELLIGENCE 

AGENCY

Sec. 401. Amendment to certain Central Intel- 

ligence Agency Act of 1949 notifi- 
cations shall be made available to the Committees 
of the House of Represent- 
atives whenever the Director exercises the 
authority granted by this section.

Sec. 104. INTELLIGENCE COMMUNITY MAN- 

AGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIA-

TIONS.—There is authorized to be appropriated for the 
Intelligence Community Management Account of the 
Director of Central Intelligence for fiscal year 2004 the 
sum of $131,560,000,000. Within such amount, 
funds identified as classified schedule of authorizations 
referred to in section 102(a) for advanced research and 
development shall remain available until September 30, 2005.

(b) AUTHORIZED PERSONNEL LEVELS.— 
The elements within the Intelligence Community Man-

agement Account of the Director of Central Intel-

ligence are authorized 130 full-time personnel as of 
September 30, 2004. Personnel serving in such 
elements may be permanent employees of the 
Intelligence Community Management Account or 
personnel detailed from other elements of the 
United States Government.

(c) CLASSIFIED AUTHORIZATIONS.— 
(1) AUTHORIZATION OF APPROPRIA-

TIONS.—In addition to amounts to be appro-

priated for the Intelligence Community Manage-

ment Account by subsection (a), there are also 
authorized to be appropriated for the 
Intelligence Community Management Account for 
fiscal year 2004 such additional amounts as are 
specified in the classified Schedule of Author-

izations referred to in section 102(a). Such addi-
tional amounts for research and development 
shall remain available until September 30, 2005.

(2) AUTHORIZATION OF PERSONNEL.—In addi-
tion to personnel authorized by subsection (b), the 
Director is authorized 1,500 intelligence community 
management account personnel as of September 30, 2004. Personnel 
serving in such elements may be permanent personnel 
of the Intelligence Community Management Account or personnel detailed 
from other elements of the United States Government.

(d) REIMBURSEMENT.—Except as provided in 
section 113 of the National Security Act of 1947 
(50 U.S.C. 404(a)), during fiscal year 2004 any of-
crator or employee of the United States or a mem-
ber of the Armed Forces who is detailed to the 
staff of the Intelligence Community Manage-

ment Account of the Director of Central Intel-

ligence shall be reimbursed for travel and subsis-
tence expenses incurred in the performance of 
duties required by such Act, including a provision of the classified 
Schedule of Authorizations referred to in section 102(a) or the classified 
annex to this Act, that involves the intelligence or intelligence-related 
activities of the Department of Defense or the Department of 
Energy is prepared or conducted in consultation with the Secretary of 
Defense or the Secretary of Energy.

(2) The Secretary of Defense or the Secretary 
of Energy may carry out any consultation 
required by this subsection through an official of 
the Department of Defense or the Department of 
Energy, as the case may be, designated by such 
Secretary for that purpose.

(3) Any report, review, study, or plan referred 
to in subsection (a) shall be submitted, in addition to any other committee of 
Congress specified for submittal in the provision 
concerned, to the following committees of Con-
gress:

(1) The Committees on Armed Services and 
Appropriations and the Select Committee on In-

elligence of the Senate.

(2) The Committees on Armed Services and 
Appropriations and the Permanent Select Com-
mittee on Intelligence of the House of Repre-

sentatives.

TITLE II—CENTRAL INTELLIGENCE AGEN-

CY RETIREMENT AND DISABILITY SYS-

TEM

Sec. 201. AUTHORIZATION OF APPROPRIA-

TIONS.

There is authorized to be appropriated for the 
Central Intelligence Agency Retirement and Dis-
ability Fund for fiscal year 2004 the sum of $226,000,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

Sec. 301. INCREASE IN EMPLOYEE COMPEN-

SATION AND BENEFITS AUTHORIZED 

by Law.

Appropriations authorized by this Act for sal-
ary, pay, retirement, and other benefits for Fed-
eral employees may be increased by such addi-
tional amounts as may be necessary for in-
creases in such compensation or benefits authorized by law.
for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

Subtitle B—Intelligence

SEC. 311. MODIFICATION OF AUTHORITY TO OBLIGATE FUNDS; PAYMENT TO CONTRACTORS; APPOINTMENT OF PERSONAL STAFF; AND AUTHORIZATION OF APPROPRIATIONS.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) by inserting “and” at the end of subparagraph (A);
(2) by striking subparagraph (B); and
(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 312. MODIFICATION OF NOTICE AND WAIT REQUIREMENTS ON PROJECTS TO CONSTRUCT IMPROVE INTELLIGENCE COMMUNITY FACILITIES.

(a) INCREASE OF THRESHOLDS FOR NOTICE.—Subsection (a) of section 602 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103-339; 108 Stat. 3432; 50 U.S.C. 403-2(b)(a)) is amended—

(1) by striking “$750,000” each place it appears and inserting “$5,000,000”;
(2) by striking “$500,000” each place it appears and inserting “$1,000,000”;
(3) by striking “requirements for emergency projects” and inserting “requirements for emergency projects”;
(4) by striking “21-day period” and inserting “21-day period”;
(5) by striking “an emergency exists with respect to the national security or the protection of health, safety, or environmental quality; and”;
(6) by striking “any delay in the commencement of the project would harm any or all of those interests.”.

SEC. 313. PILOT PROGRAM ON ANALYSIS OF SIGNALS AND OTHER INTELLIGENCE BY INTELLIGENCE ANALYSTS OF VARIOUS ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—The Director of Central Intelligence shall, in coordination with the Secretary of Defense, carry out a pilot program to assess the feasibility and advisability of permitting intelligence analysts of various elements of the intelligence community to access and analyze intelligence from the databases of other elements of the intelligence community in order to achieve the objectives set forth in subsection (c).

(b) COVERED INTELLIGENCE.—The intelligence to be analyzed under the pilot program under subsection (a) shall include the following:

(1) Signals intelligence of the National Security Agency; and
(2) Intelligence of other elements of the intelligence community as the Director shall select for purposes of the pilot program.

(c) OBJECTIVES.—The objectives set forth in this subsection are as follows:

(1) To enhance the capacity of the intelligence community to undertake so-called “all source fusion” analysis in support of the intelligence and national security missions of the intelligence community;
(2) To reduce, to the extent practicable, the amount of intelligence collected by the intelligence community that is not assessed, or re-viewed, by intelligence analysts.

(c) COMMENCEMENT.—The Director shall commence the pilot program under subsection (a) not later than December 31, 2003.

SEC. 314. PILOT PROGRAM ON TRAINING FOR INTELLIGENCE ANALYSTS.

(a) PILOT PROGRAM REQUIRED.—(1) The Director of Central Intelligence shall carry out a pilot program to assess the feasibility and advisability of providing for the preparation of selected students for availability for employment as intelligence analysts for the intelligence and national security activities of the United States through a training program similar to the Reserve Officers’ Training Corps programs of the Department of Defense.
(2) The pilot program shall be known as the Intelligence Community Analyst Training Program.

(b) ELEMENTS.—In carrying out the pilot program under subsection (a), the Director shall establish and maintain one or more cadres of students who—

(1) participate in such training as intelligence analysts as the Director considers appropriate; and
(2) upon completion of such training, are available for employment as intelligence analysts under such terms and conditions as the Director considers appropriate.

(c) DURATION.—The Director shall carry out the pilot program under subsection (a) during fiscal years 2004 through 2006.

SEC. 315. EXTENSION OF NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.


SEC. 316. BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.

(a) FINDINGS.—Congress makes the following findings:

(1) Funds within the National Foreign Intelligence Program often must be shifted from program to program and from fiscal year to fiscal year to fund projects which are needed because of significant increases in the costs of acquisition of major systems by the intelligence community.

(b) APPROPRIATIONS.—While some increases in the costs of acquisition of major systems by the intelligence community are unavoidable, the magnitude of growth in the costs of acquisition of many major systems indicates a systemic bias within the intelligence community to underestimate the costs of such acquisition, particularly in the preliminary stages of development and production.

(c) CONCLUSION.—By Congress to fund the acquisition of major systems by the intelligence community relies significantly upon initial estimates of the affordability of acquiring such major systems and occur within a context in which funds can be allocated for a variety of alternative programs. Thus, substantial increases in costs of acquisition of major systems place significant burdens on the availability of funds for other programs and new proposals within the National Foreign Intelligence Program.

(d) APPROPRIATIONS.—Independent cost estimates, prepared by independent offices, have historically represented a more accurate projection of the costs of acquisition of major systems.

(e) RECOGNITION.—Recognizing the benefits associated with independent cost estimates for the acquisition of major systems, the Congress has built upon the statutory requirement in section 243 of title 10, United States Code, to develop
and consider independent cost estimates for the acquisition of such systems by mandating the use of such estimates in budget requests of the Department of Defense.

(6) Each independent cost estimate for a major system shall be prepared under paragraph (2).

(a) INDEPENDENT COST ESTIMATES.—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(b) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the office of the Deputy Director of Central Intelligence a separate office within the Department of Defense, to be named the Office of Central Intelligence, that shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is required by subsection (b).

(c) UTILIZATION OF COSTS OF ACQUISITION OF MAJOR SYSTEMS.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by inserting after section 506 the following:

"SEC. 506A. (a) INDEPENDENT COST ESTIMATES.—(1) The Director of Central Intelligence shall, in consultation with the head of each element of the intelligence community concerned, prepare an independent cost estimate of the full life-cycle cost of development, procurement, and operation of each major system to be acquired by the intelligence community.

(2) Each independent cost estimate for a major system shall be prepared under paragraph (2). An estimate to the maximum extent practicable, specify the amount required to be appropriated and obligated to develop, procure, and operate the proposed period of development, procurement, and operation of the major system.

(3)(A) In the case of a program of the intelligence community that qualifies as a major system, an independent cost estimate shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriations for such funds are anticipated to be obligated for the development or procurement of such major system.

(B) In the case of a program of the intelligence community that does not qualify as a major system, an independent cost estimate was not previously required to be prepared under this section, including a program for which development or procurement commenced before the date of enactment of the Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(4) The independent cost estimate for a major system shall be updated upon—

(A) the completion of any preliminary design review associated with the major system;

(B) any significant modification to the anticipated design of the major system; or

(C) any change in circumstances that renders the current independent cost estimate for the major system inaccurate.

(5) Any update of an independent cost estimate for a major system under paragraph (4) shall meet all requirements for independent cost estimates under this section, and shall be treated as the most current independent cost estimate for the major system until further updated under this paragraph.

(b) PREPARATION OF INDEPENDENT COST ESTIMATES.—(1) The Director shall establish within the Office of the Deputy Director of Central Intelligence a separate office within the Department of Defense that shall be responsible for preparing independent cost estimates, and any updates thereof, under subsection (a), unless a designation is required by subsection (b).

(2) In the case of the acquisition of a major system for an element of the intelligence community within the Department of Defense, the Director and the Secretary of Defense shall provide that the independent cost estimate, and any updates thereof, under subsection (a) be prepared by an entity designated by the President, as directed by the Director and the Secretary in accordance with section 234(b)(1)(A) of title 10, United States Code.

(c) UTILIZATION IN BUDGETS OF PRESIDENT.—If the budget of the President requests appropriations for any fiscal year for the development or procurement of a major system by the intelligence community, the Director shall request in such budget an amount of appropriations for the development or procurement, as the case may be, of the major system that is equivalent to the amount of appropriation requested in the most current independent cost estimate for the major system for obligation for each fiscal year for which appropriations are requested for the major system in such budget.

(d) INCLUSION OF ESTIMATES IN BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress in support of the budget of the President shall include the most current independent cost estimate under this section for each major system for which appropriations are requested in such budget for any fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term 'budget of the President' means the budget for the fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.

(2) The term 'independent cost estimate' means a programmatic and technical analysis, assessment, and quantification of all costs and risks associated with the acquisition of a major system, which shall be based on programmatic and technical analysis provided by the agency within the element of the intelligence community with primary responsibility for the development, procurement, or operation of the major system.

(3) The term 'major system' means any significant program or element of the intelligence community with projected total development and procurement costs exceeding $500,000,000 (in current fiscal year dollars), which costs shall include all end-to-end program costs, including costs associated with the development and procurement of the program and any other costs associated with the development and procurement of systems required to support or utilize the program.

(c) BUDGET TREATMENT OF COSTS OF ACQUISITION OF MAJOR SYSTEMS BY THE INTELLIGENCE COMMUNITY.—(1) The Intelligence Authorization Act for Fiscal Year 2004, if the aggregate future costs of development or procurement (or any combination of such activities) of the program will exceed $500,000,000 (in current fiscal year dollars), the program shall qualify as a major system for purposes of this section, and an independent cost estimate for such system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year thereafter in which appropriated funds are anticipated to be obligated for the development or procurement of such major system.

(2) Each independent cost estimate for a major system shall be prepared before the submission to Congress of the budget of the President for the first fiscal year in which appropriations for such funds are anticipated to be obligated for the development or procurement of such major system.

(d) MODIFICATION.—The term 'significant program of an element of the intelligence community' means the elements of the intelligence community, and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(e) DEFINITIONS.—In this section:

(1) The term 'intelligence community' means the elements of the intelligence community and of the Department of Defense, to various threats from foreign governments, international terrorist organizations, and organized crime, including information warfare (IW), Information Operations (IO), Computer Network Exploitation (CNE), and Computer Network Attack (CNA).

(2) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying comprehensive computer firewalls, accountability procedures, or other appropriate security controls.

(3) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

SEC. 321. CLARIFICATION AND MODIFICATION OF SUBSECTION (B) OF TITLE 31, UNITED STATES CODE.—The report under subsection (b) shall also include information as follows:

(A) The number of individuals utilizing such computers or computer systems who have access to input-output devices on such computers or computer systems.

(B) The risks of providing users of local area networks (LANs) or wide-area networks (WANs) of computers that include classified information with capabilities for electronic mail, upload and download, or removable storage media without also deploying comprehensive computer firewalls, accountability procedures, or other appropriate security controls.

(C) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

SEC. 322. CLARIFICATION AND MODIFICATION OF SUBSECTION (B) OF TITLE 31, UNITED STATES CODE.—The report under subsection (b) shall also include information as follows:

(A) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(B) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(C) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(D) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(E) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(F) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(G) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(H) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(I) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(J) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(K) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(L) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(M) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(N) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(O) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(P) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(Q) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(R) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(S) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(T) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(U) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(V) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(W) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(X) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(Y) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.

(Z) Any other matters that the Director and the Secretary jointly consider appropriate for purposes of the report.
SEC. 334. REPORT ON MODIFICATIONS OF POLICY AND LAW ON CLASSIFIED INFORMATION TO FACILITATE SHARING OF INFORMATION ACROSS THE NATIONAL SECURITY PURPOSES.

(a) REPORT.—Not later than four months after the date of the enactment of this Act, the President shall submit to appropriate committees of Congress a report that—

(1) identifies impediments in current policy and regulations to the sharing of classified information horizontally across and among Federal departments and agencies, and between Federal departments and agencies and vertically to and from agencies of State and local government and the private sector, for national security purposes, including homeland security;

(2) proposes appropriate modifications of policy, law, and regulations to eliminate such impediments in current policy and regulations to the sharing of classified information for homeland security purposes, including homeland security; and

(3) outlines a plan of action (including appropriate milestones and funding) to establish the Terrorist Threat Integration Center as called for in the Information on the State of the Union given by the President to Congress under section 5 of Article II of the Constitution of the United States in 2003.

(b) CONSIDERATIONS.—In preparing the report under subsection (a), the President shall—

(1) consider the extent to which the reliance on a document-based approach to the protection of classified information impedes the sharing of classified information; and

(2) consider the extent to which the utilization of a database-based approach, or other electronic approach, to the protection of classified information might facilitate the sharing of classified information.

(c) COORDINATION WITH OTHER INFORMATION SHARING ACTIVITIES.—In preparing the report under subsection (a), the President shall, to the maximum extent practicable, account actions being undertaken under the Homeland Security Information Sharing Act (subtitle I of title VII of Public Law 107-296; 116 Stat. 2252; 6 U.S.C. 481 et seq.).

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives.

SEC. 335. REPORT ON DETAIL OF CIVILIAN INTELLIGENCE PERSONNEL AMONG ELEMENTS OF THE INTELLIGENCE COMMUNITY AND THE DEPARTMENT OF DEFENSE.

(a) REPORT REQUIRED.—The Director of Central Intelligence shall, in consultation with the heads of the elements of the intelligence community, submit to the appropriate committees of Congress a report of the costs and benefits of improving the detail or transfer of civilian intelligence personnel between and among the various elements of the intelligence community for the purpose of enhancing flexibility and effectiveness of the intelligence community in responding to changes in requirements for the collection, analysis, and dissemination of intelligence.

(b) REPORT ELEMENTS.—The report under subsection (a) shall—

(1) set forth a variety of proposals on means of improving the detail or transfer of civilian intelligence personnel as described in that subsection;

(2) identify the proposal or proposals determined by the heads of the elements of the intelligence community to be the most likely to meet the purpose described in that subsection; and

(3) include such recommendations for such legislative or administrative action as the heads of the elements of the intelligence community consider appropriate to implement the proposal or proposals identified under paragraph (2).

(c) SUBMITTAL DATE.—The report under subsection (a) shall be submitted not later than February 15, 2004.

(d) DEFINITIONS.—In this section:

(1) the term “appropriate committees of Congress” means—

(A) the Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the Senate; and

(B) the Permanent Select Committee on Intelligence and the Committees on Armed Services and the Judiciary of the House of Representatives;

(2) the term “elements of the intelligence community” means the elements of the intelligence community set forth in or designated under section 304 of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term “heads of the elements of the intelligence community” includes the Secretary of Defense and each element of the intelligence community within the Department of Defense or the military departments.
the United Nations Security Council adopted since the invasion of Kuwait by Iraq in August 1990.  

(b) **Final Report**—(1) Not later than 270 days after the date of the cessation of hostilities in Iraq (as so determined), the Director shall submit to the appropriate committees of Congress a final report on the information described in subsection (a). 

(2) The final report under paragraph (1) shall include such updates of the preliminary report under subsection (a) as the Director considers appropriate.

(c) **Elements**—Each report under this section shall set forth, to the extent practicable, with respect to each shipment of weapons or ammunition addressed in such report the following:

(1) The country of origin.

(2) Any country of transshipment.

(3) The military end-use of the shipment.

(4) Whether the shipment is for a program of assistance.

(5) Any other information the Secretary considers appropriate.

(d) **Appropriate Committees of Congress**—(1) The Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.

(2) The Select Committee on Intelligence shall report on the report submitted under this section.

**SECTION 329.** REPEAL OF CERTAIN REPORT REQUIREMENTS RELATING TO INTELLIGENCE ACTIVITIES

(a) **Annual Evaluation of Performance and Responsiveness of Intelligence Community**—Section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended by striking subsection (a).

(b) **Periodic and Special Reports on Disclosure of Intelligence Information to United Nations**—Section 112 of the National Security Act of 1947 (50 U.S.C. 404a) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) **Annual Report on Intelligence Community Cooperation with Counterdrug Activities**—Section 114 of the National Security Act of 1947 (50 U.S.C. 404b) is amended—

(1) by striking subsection (a) and (b); and

(2) by redesignating subsections (c) through (f) as subsections (a) through (e), respectively.

(d) **Annual Report on Counter Leases**—Section 114 of the National Security Act of 1947, as amended by this section, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as sub-

section (d).

(e) **Annual Report on Protection of Counterintelligence Agen-

ts**—Section 603 of the National Security Act of 1947 (50 U.S.C. 423) is repealed.


(g) **Annual Report on Intelligence Activities of People’s Republic of China**—Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107; 111 Stat. 2253; 50 U.S.C. 402a note) is repealed.

(h) **Annual Report on Coordination of Counterintelligence Matters with FBI**—Section 811(c) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 50 U.S.C. 402a(c)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(i) **Report on Postemployment Assistance for Intelligence Employees**—Section 1611 of title 10, United States Code, is amended by striking subsection (e).

(j) **Annual Report on Activities of FBI Personnel Outside the United States**—Section 540c of title 18, United States Code, is repealed.

(k) **Annual Report on Exceptions to Consumer Disclosure Requirements for National Security Investigations**—Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681v(b)(4)) is amended—

(1) by striking subparagraphs (D) and (E); and

(2) by redesignating subparagraph (F) as subparagraph (D).

(l) **Conforming Amendments**—Section 507 of the National Security Act of 1947 (50 U.S.C. 415b) is amended—

(1) by substituting (A) in paragraph (1)—

(i) by striking subparagraphs (A), (C), (D), (G), (J), (I), and (E); and

(ii) by redesigning subparagraphs (B), (E), (F), (H), (K), (M), and (N) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively; and

(iii) in subparagraph (G), as so redesignated, by striking “section 114c” and inserting “section 114b”;

(2) by redesignating paragraph (2)—

(i) in subparagraph (A), by striking “section 114b” and inserting “section 114a”;

(ii) in subparagraph (B), by striking “section 114d” and inserting “section 114c”;

(iii) by striking subparagraphs (C), (E), and (F); and

(iv) by redesignating subparagraphs (D) and (G) as subparagraphs (C) and (D), respectively; and

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesigning paragraphs (2) through (8) as paragraphs (2) through (7), respectively.

(m) **Clerical Amendments**—Section 112 of the National Security Act of 1947—The table of contents for the National Security Act of 1947 is amended by striking the item relating to section 603.

(n) **Title 18, United States Code**—The title of sections at the beginning of chapter 33 of title 18, United States Code, is amended by striking the item relating to section 540c.

(o) **Effective Date**—The amendments made by this section shall take effect on December 31, 2003.

**SECTION 330.** REPORT ON OPERATIONS OF DIRECTORATE OF INTELLIGENCE ANALYSIS AND INFRASTRUCTURE PROTECTION AND TERRORIST THREAT INTEGRA-

TION CENTER

(a) **Report Required**—The Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the operations of the Directorate of Intelligence Analysis and Infrastructure Protection of the Department of Homeland Security and the Terrorist Threat Integration Center. The report shall include the following:

(1) An assessment of the operations of the Direc-

tore, including the capability of the Direc- 

torate—

(A) to meet personnel requirements, including 

requirements to employ qualified analysts, and 

the status of efforts to employ qualified anal-

ysts; 

(B) to share intelligence information with the 

other elements of the intelligence community, 

including the sharing of intelligence information 

through secure information technology 

connections between the Directorate and the 

other elements of the intelligence community; 

(C) to disseminate intelligence information, 

or analyses of intelligence information, to other 

departments and agencies of the Federal Gover-

nment and, as appropriate, to State and local 

governments;

(D) to coordinate with State and local 

law enforcement and other law enforcement 

officers; 

(E) to access information, including intel-

ligence and law enforcement information, from

the departments and agencies of the Federal 

Government, including the ability to access, in 

a timely and efficient manner, all information au-

thorized by section 202 of the Homeland Security 

Act of 2002 (Public Law 107-296; 6 U.S.C. 122); 

and (F) to fulfill, given the current assets and ca-

pabilities of the Directorate, the responsibilities 

and duties of the Secretary of Homeland Secu-

rity, and the Committees on the Judiciary and 

Appropriations of the House of Representatives.

(b) **Submit Date**—The report required by this section shall be submitted not later than May 1, 2004.

(c) **Form**—The report required by this section shall be submitted in unclassified form, but may include a classified annex.

(d) **Appropriate Committees of Congress Defined**—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and International Relations of the House of Representatives.

**Subtitle E—Other Matters**

**SECTION 351.** EXTENSION OF SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE


(1) in the heading, by striking “TWO-YEAR” before “SUSPENSION OF REORGANIZATION”; and

(2) in the text, by striking “ending on October 1, 2003” and inserting “ending on the date that is 60 days after the appropriate congressional committees of jurisdiction (as defined in section 324(d) of that Act (22 U.S.C. 7304(d)) are notified jointly by the Secretary of State (or the Secretary’s designee) and the Director of the Office of Management and Budget (or the Director’s designee) that the operational framework for the office has been terminated”.

**SECTION 352.** MODIFICATIONS OF AUTHORITIES ON EXPLOSIVE MATERIALS

(a) **Clarification of Aliens Authorized to Distribute Explosive Materials**—Section 842(d)(7) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B)—

(A) by inserting “or” at the end of clause (i); and

(B) by striking clauses (iii) and (iv); and

(3) by adding the following new subparagraph:

(E) a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney
General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and who is present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation; or (D) is lawfully present in the United States under military orders for training or other military purpose authorized by the United States and who is present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation.

SEC. 353. MODIFICATION OF PROHIBITION ON RECEIPT, OR POSSESSION OF THE EXPLOSIVE MATERIALS IS IN FURTHERANCE OF SUCH COOPERATION; OR (D) IS LAWFULLY PRESENT IN THE UNITED STATES UNDER MILITARY ORDERS FOR TRAINING OR OTHER MILITARY PURPOSE AUTHORIZED BY THE UNITED STATES AND WHO IS PRESENT IN THE UNITED STATES IN COOPERATION WITH THE DIRECTOR OF CENTRAL INTELLIGENCE, AND THE SHIPMENT, TRANSPORTATION, RECEIPT, OR POSSESSION OF THE EXPLOSIVE MATERIALS IS IN FURTHERANCE OF SUCH COOPERATION.


SEC. 355. MODIFICATION OF FEDERAL GOVERNMENT-FUNDED RESEARCH ON SECURITY EVALUATIONS. (a) WORKSHOPS FOR COORDINATION OF RESEARCH. The National Science Foundation and the Office of Science and Technology Policy shall jointly sponsor fewer than two workshops on the coordination of Federal Government research on the use of behavioral, psychological, and physiological assessments of individuals in the conduct of security evaluations.

(b) DEADLINE FOR COMPLETION OF ACTIVITIES. The activities of the workshops sponsored under section (a) shall be completed not later than March 1, 2004.

(c) PURPOSES. The purposes of the workshops sponsored under subsection (a) are as follows:

(1) To provide a forum for cataloging and coordinating federally-funded research activities relating to the development of new techniques in the behavioral, psychological, or physiological assessment of individuals to be used in security evaluations.

(2) To develop a research agenda for the Federal Government on behavioral, psychological, and physiological assessments of individuals, including an identification of the research most likely to advance the understanding of the use of such assessments of individuals in security evaluations.

(3) To distinguish between short-term and long-term areas of research on behavioral, psychological, and physiological assessments of individuals in order to maximize the utility of short-term and long-term research on such assessments.

(4) To identify the Federal agencies best suited to support research on behavioral, psychological, and physiological assessments of individuals.

(5) To develop recommendations for coordinating future federally-funded research for the development, improvement, or enhancement of security evaluations.

(c) ADVISORY GROUP. (1) In order to assist the National Science Foundation and the Office of Science and Technology Policy in carrying out the activities of the workshops sponsored under subsection (a), there is hereby established an interagency advisory group with respect to such workshops.

(2) The advisory group shall be composed of the following:—(A) A representative of the Social, Behavioral, and Economic Directorate of the National Science Foundation; (B) A representative of the Office of Science, and Technology Policy; (C) The Secretary of Defense, or a designee of the Secretary of Defense; (D) The Secretary of State, or a designee of the Secretary; (E) The Attorney General, or a designee of the Attorney General; (F) The Secretary of Energy, or a designee of the Secretary; (G) The Secretary of Homeland Security, or a designee of the Secretary; (H) The Director of Central Intelligence, or a designee of the Director; (I) The Director of the Federal Bureau of Investigation, or a designee of the Director; (J) The National Counterintelligence Executive, or a designee of the National Counterintelligence Executive."

(f) CLASSIFIED INFORMATION. (1) Not later than March 1, 2004, the National Science Foundation and the Office of Science and Technology Policy shall each submit a report to Congress on the results of activities of the workshops sponsored under subsection (a), including the findings and recommendations of the Foundation and the Office as a result of such activities.

(g) FUNDING.—(1) Of the amount authorized to be appropriated to the National Security Act of 1947—Subsection (c)(1) of section 112 of the National Security Act of 1947, as redesignated by section 339(b) of this Act, is further amended by striking "section 103(c)(6)" and inserting "section 103(c)(7)".


(b) NATIONAL SECURITY AGENCY ACT OF 1952. (A) The National Security Act of 1947 (50 U.S.C. 103(c)(7)) is amended by striking "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6))" and inserting "section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(7))".

(c) TREATMENT OF CLASSIFIED INFORMATION IN MONEY LAUNDERING CASES. Section 531B of title 31, United States Code, is amended by adding at the end the following:

"(f) CLASSIFIED INFORMATION.—In any judicial review of a finding of the existence of a primary money laundering concern, the requirement for 1 or more special measures with respect to a primary money laundering concern, made under this section, if the designation or, in both cases, the classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C.
app.), such information may be submitted by the Secretary to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review of any findings made under this subsection.

**TITLE IV—CENTRAL INTELLIGENCE AGENCY**

**SEC. 401. AMENDMENT TO CERTAIN CENTRAL INTELLIGENCE AGENCY ACT OF 1949**

Section 4(b)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403b(5)) is amended by inserting "the following paragraph:"

**SEC. 402. PROTECTION OF CERTAIN INTELLIGENCE AGENCY PERSONNEL FROM TORT LIABILITY.**

Section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403b) is amended by adding at the end the following new subsection:

(1) Notwithstanding any other provision of law, any Agency personnel designated by the Director under subsection (a), or designated by the Director under section 5(a)(4) to carry firearms for the protection of current or former Agency personnel and their immediate families, defectors and their immediate families, and other persons in the United States under Agency auspices, shall be considered for purposes of chapters 407 and 408 of title 28, United States Code, or any other provision of law relating to tort liability, to be acting within the scope of their office or employment when such Agency personnel take reasonable action, which may include the use of force, to—

(A) protect an individual in the presence of such Agency personnel from a crime of violence; or

(B) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(C) prevent the escape of any individual whom such Agency personnel reasonably believe has committed a crime of violence in the presence of such Agency personnel.

(2) Paragraph (1) shall not affect the authorities of the Attorney General under section 2679(d)(1) of title 28, United States Code.

(3) In this subsection, the term ‘crime of violence’ has the meaning given that term in section 16 of title 18, United States Code.

**SEC. 403. REPEAL OF OBSOLETE LIMITATION ON USE OF FUNDS IN CENTRAL SERVICES OPERATING CAPITAL FUND**

Section 21(f)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403b(u)(2)) is amended—

(1) in paragraph (A), by striking "Subject to" and inserting "The Director;" and

(2) by striking paragraph (B).

**SEC. 404. TECHNICAL AMENDMENT TO FEDERAL INFORMATION SECURITY MANAGEMENT ACT OF 2002.**

Section 353(b)(1) of title 44, United States Code, as added by section 1001(b)(1) of the Homeland Security Act of 2002 (Public Law 107–296), and section 354(b)(1) of title 44, United States Code, as added by section 301(b)(1) of the E-Government Act of 2002 (Public Law 107–347), are each amended by inserting "or any other law after 1978."
records because of failure to comply with any provision of this subsection, the court shall order NSA to search and review the appropriate exempted operational file or files for the requested records, or portions thereof, available in accordance with the provisions of section 525 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

(ii) If at any time following the filing of a complaint pursuant to this paragraph NSA agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

(vii) Any information filed with, or produced before the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence before submission to the court.

(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—(i) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

(ii) The review required by paragraph (i) shall include consideration of the historical value of the exempted files and the potential for declassifying a significant part of the information contained therein.

(iii) A complaint that alleges that NSA has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States for the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

(1) Whether NSA has conducted the review required by paragraph (i) before the expiration of the 10-year period beginning on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2004 or before the expiration of the 10-year period beginning on the date of the most recent review.

(2) Whether NSA, in fact, considered the criteria set forth in paragraph (ii) in conducting the required review.

(c) WEAPON AMENDMENTS.—(1) Section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)) is amended by striking ‘‘For purposes of this title’’ and inserting ‘‘In this section and section 702.’’

(2) Section 702(c) of such Act (50 U.S.C. 432(c)) is amended by striking ‘‘enactment of this title’’ and inserting ‘‘October 15, 1984.’’

(iii) The title heading for the section of such Act is amended to read as follows:

‘‘TITLE VII—PROTECTION OF OPERATIONAL FILES’’

(b) The section heading for section 701 of such Act is amended as follows:

‘‘PROTECTION OF OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE AGENCY’’

(c) The section heading for section 702 of such Act is amended to read as follows:

‘‘DECENNIAL REVIEW OF EXEMPTED CENTRAL INTELLIGENCE AGENCY OPERATIONAL FILES’’

(d) CLERICAL AMENDMENTS.—The table of contents for the National Security Act of 1947 is amended by:

(1) striking the items relating to sections 105C and 105D; and

(2) striking the items relating to title VII and inserting the following new item:

‘‘TITLE VII—PROTECTION OF OPERATIONAL FILES’’

‘‘Sec. 707. Protection of operational files of the Central Intelligence Agency.’’

Higher Education Relief Opportunities for Students Act of 2003

Mr. SUNUNU. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 1412, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1412) to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency.

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill (H.R. 1412) was read the third time and passed.

James L. Watson United States Court of International Trade Building

Mr. SUNUNU. Mr. President, I ask unanimous consent that the President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 1018, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1018) to designate the building located at 1 Federal Plaza in New York, New York, as the ‘‘James L. Watson United States Court of International Trade Building.’’

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill (H.R. 1018) was read the third time and passed.

Providing for Additional Space and Resources for National Collections Held by the Smithsonian Institution

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate
proceed to the immediate consideration of H.R. 2195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2195) to provide for additional space and resources for national collections held by the Smithsonian Institution, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, Larry Small, Secretary of the Smithsonian, has provided a letter to the majority and minority leaders that clarifies the intentions of the Smithsonian with regard to Section 5 of H.R. 2195.

I am unanimous consent that the letter from Secretary Small concerning this clarification of how the Smithsonian will proceed with voluntary separation incentive payments be made part of the Record.

The PRESIDING OFFICER. The material was ordered to be printed in the Record, as follows:


Hon. Bill Frist, Majority Leader, U.S. Senate, Washington, DC.

Hon. Tom Daschle, Minority Leader, U.S. Senate, Washington, DC.

Dear Leader Frist and Leader Daschle:

In discussions to facilitate the Senate’s consideration of H.R. 2195, the “Smithsonian Facilities Authorization Act,” the Smithsonian Institution would like to clarify its intentions with regard to Section 5, providing authority for voluntary separation incentive payments, or buyouts. This letter gives a detailed explanation of how we will proceed with the buyout.

If this legislation is enacted, the Secretary of the Smithsonian Institution will have the authority to offer separation incentives to employees who voluntarily retire or resign. Incentives will be paid on the basis of an organizational unit, occupational series or level, geographic location, specific window periods, skills, knowledge, other job related factors, and a location of such factors.

An incentive payment will be the lesser of the amount of severance pay the employee would be entitled to if the employee were entitled to a severance payment, or an amount determined by the Secretary not to exceed $25,000.

We will offer buyouts for no more than three years from the date of enactment of H.R. 2195.

Any employee is eligible for the buyout if he or she is serving under an appointment without time limitation and has been employed for two years continuously in the civil service at the Smithsonian. Employees not eligible for the buyout are reemployed annuitants, employees eligible for disability retirement, employees about to be separated for misconduct or unacceptable performance, employees who have previously received a voluntary separation incentive payment, employees who are on transfer from an agency of the Executive Branch, and employees who had received a recruitment or relocation bonus, a retention allowance, or a student loan repayment.

The Secretary will devise a plan outlining the intended use of voluntary separation incentive payments. The plan will include the specific positions and functions to be reallocated, a description of the categories of employees to be offered incentives, the time period during which incentives may be paid, the number and amounts of the incentive payments, and a description of how the Smithsonian will operate after positions and functions are reallocated. The Secretary will consult with the Office of Management and Budget regarding the Institution’s plan prior to implementation and will provide an organizational chart for the Smithsonian Institution reflecting its operations after incentive payments have been completed.

In addition, buyouts will only be made in the case of an employee who voluntarily separates and will be paid in a lump sum after the employee’s separation. Buyouts will not be the basis for payments or included in the computation of any employee’s social security or retirement payments, benefit, will not be taken into account in determining the amount of severance pay, and will be taken from appropriations or funds available for the basic pay of the employee.

We will amend our administrative procedures and make clear the buyout offer that any employee who accepts the voluntary separation incentive payment and then accepts employment for compensation with the Federal Government within five years will be required to reimburse the Smithsonian Institution, prior to the individual’s first day of employment, the entire amount of the voluntary separation incentive payment. This repayment requirement may be waived in certain circumstances, as detailed in the Homeland Security Act (Public Law 107-296).

The purpose of the buyout is not to reduce employment at the Smithsonian but to reconfigure the workforce to meet current and future needs.

I hope this information is useful. Please do not hesitate to contact me if you have any further questions. The passage of the “Smithsonian Facilities Authorization Act” prior to the August recess is extremely important to the Institution.

All the best,

Lawrence M. Small,
Secretary.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements regarding the bill be printed in the RECORD. The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1761) was read the third time and passed.

GARNER E. SHRIVER POST OFFICE BUILDING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of H.R. 1761 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1761) to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the “Garnner E. Shriver Post Office Building.”

There being no objection, the Senate proceeded to consider the bill.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding the bill be printed in the RECORD. The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1761) was read the third time and passed.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. SUNDUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 242, S. Res. 30, and Calendar No. 243, S. Res. 204, en bloc.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 30) expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”.

A resolution (S. Res. 204) designating the week of November 9 through November 15, 2003, as “National Veterans Awareness Week” to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

There being no objection, the Senate proceeded to consider the resolutions.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolutions be agreed to en bloc; further, that the motions to reconsider be laid upon the table en bloc, with no intervening action or debate.

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

The resolution (S. Res. 30) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 30

Whereas there are 106 historically black colleges and universities in the United States;

Whereas historically black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas historically black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas historically black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

(a) SENSE OF THE SENATE. —It is the sense of the Senate that the President should designate the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—
(1) designating the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”; and
(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

The resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 204

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;
Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century;
Whereas the contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by Americans;
Whereas the advent of the all-volunteer Armed Forces has resulted in a sharp decline in the numbers of individuals and families who have had any personal connection with the Armed Forces;
Whereas this reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in the Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations;
Whereas the system of civilian control of the Armed Forces makes it essential that the future leaders of the Nation understand the history of military action and the contributions and sacrifices of those who conduct such actions; and
Whereas, on November 6, 2002, President George W. Bush issued a proclamation urging all Americans to observe November 10 through November 16, 2002, as National Veterans Awareness Week;

SEC. 1. NATIONAL VETERANS AWARENESS WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week of November 9 through November 15, 2003, as “National Veterans Awareness Week”.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week of November 9 through November 15, 2003, as “National Veterans Awareness Week” for the purpose of emphasizing educational efforts directed at elementary and secondary school students concerning the contributions and sacrifices of veterans; and
(2) calling on the people of the United States to observe National Veterans Awareness Week with appropriate educational activities.

AMERICAN JEWISH HISTORY MONTH

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 25

The PRESIDENT PRO Tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 25) recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month,” and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the amendment to the concurrent resolution be agreed to, the concurrent resolution, as amended, be agreed to, and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDENT OF THE SENATE. Without objection, it is so ordered.

The amendment (No. 1539) was agreed to, as follows:

Strike all after the resolving clause and insert the following:

That Congress—

(1) recognizes the 350th anniversary of the American Jewish community;
(2) supports the designation of an “American Jewish History Month”; and
(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

The concurrent resolution (S. Con. Res. 25), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, with its preamble, reads as follows:

S. Con. Res. 25

Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America’s first Jewish community in New Amsterdam, now New York City;
Whereas America welcomed Jews among the millions of immigrants that streamed through our Nation’s history;
Whereas the men and women who served in the Armed Forces during the past century;
Whereas the contributions and sacrifices of those who have served in the Armed Forces;
Whereas not less than 16 American Jews have received the Medal of Honor;
Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America’s first Jewish community in New Amsterdam, now New York City;

Whereas the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans;

Whereas our Nation must become aware of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans;

Whereas 350 years of American Jewish History has contributed so much to the development of the Nation;

Whereas the Commission is designating September 2004 as “American Jewish History Month”;

NOW, THEREFORE, BE IT

RESOLVED, by the Senate (the House of Representatives concurring),—

(1) recognizes the 350th anniversary of the American Jewish community;
(2) supports the designation of an “American Jewish History Month”; and
(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

NATIONAL MISSING ADULT AWARENESS MONTH

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 213, introduced earlier today by Senator LINCOLN.

The PRESIDENT OF THE SENATE. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 213) designating August 2003, as National Missing Adult Awareness Month.

The concurrent resolution (S. Con. Res. 25) as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, with its preamble, reads as follows:

S. Con. Res. 25

Whereas families, law enforcement agencies, communities, and States should unite...
to offer much needed support and to provide a strong voice for the endangered and invol-
untarily missing adults of our Nation;
Whereas we must support and encourage the creation of efforts to continue with efforts to awaken our Nation’s awareness to the plight of our missing adults;
Whereas we must improve and promote re-
porting procedures involving missing adults and unidentified deceased persons; and
Whereas our Nation’s awareness, acknow-
ledgment, and support of missing adults, and encouragement of efforts to continue our search for these adults, must continue from this day forward: Now, therefore, be it
Resolved, That the Senate—
(1) designates August 2003, as “National Missing Adult Awareness Month”; and
(2) requests that the President issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

CONGRATULATING LANCE ARM-
STRONG FOR WINNING THE 2003 TOUR DE FRANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consider-
ation of S. Res. 214, which was sub-
mitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title. The legislative clerk read as follows:

A resolution (S. Res. 214) congratulating Lance Armstrong for winning the 2003 Tour de France.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, to reconsider be laid upon the table, and that any state-
ments relating to the matter be print-
ed in the RECORD.

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

The resolution (S. Res. 214) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 214

Whereas Lance Armstrong won the 2003 Tour de France, marking the 10th anniversary of the race, by completing the 2,125-mile, 23-day course in 83 hours, 41 minutes, and 12 sec-
onds, finishing 1 minute and 1 second ahead of his nearest competitor;

Whereas Lance Armstrong’s win on July 27, 2003, marks his fifth Tour de France vic-
tory;

Whereas, with this victory, Lance Arm-
strong joined Miguel Indurain as the only riders in history to win cycling’s most presti-
gious race in 5 consecutive years;

Whereas Lance Armstrong displayed in-
credible perseverance, determination, and leadership in prevailing over the moun-
tainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to win-
ing the premier cycling event in the world;

Whereas, in 1997, Lance Armstrong de-
feated testicular cancer, an aggressive form of testicular cancer that had spread through-
out his abdomen, lungs, and brain, and after treatment has remained cancer-free for the past 6 years;

Whereas Lance Armstrong is the first can-
cer survivor to win the Tour de France;

Whereas Lance Armstrong’s courage and resolution to overcome cancer has made him a role model to cancer patients and their loved ones, and his efforts through the Lance Armstrong Foundation have helped to advan-
tage cancer research, diagnosis, and treat-
ment, and after-treatment services;

Whereas Lance Armstrong continues to be the face of a healthy fitness activity, and a pollution-free transpor-
tation alternative; and

Whereas Lance Armstrong’s accomplish-
ments as a cancer survivor, team leader, cancer sur-
vivor, and advocate have made him an inspir-
ation to millions of people around the world: Now, therefore, be it
Resolved, (1) congratulates Lance Armstrong and the United States Postal Service team on their historic victory in the 2003 Tour de France; and
(2) commends the unwavering commitment to cancer awareness and survivorship demon-
strated by Lance Armstrong.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to Lance Armstrong.

AUTHORIZING REPRESENTATION
BY SENATE LEGAL COUNSEL
IN THE CASE OF WAGNER V. UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consider-
ation of S. Res. 215, which was sub-
mitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title. The legislative clerk read as follows:

A resolution (S. Res. 215) to authorize rep-
resentation by the Senate Legal Counsel in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, to reconsider be laid upon the table, and that any state-
ments relating to the matter be print-
ed in the RECORD.

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

The resolution (S. Res. 215) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 215

Whereas the United States Senate Com-
mitee on the Judiciary and Senator Orrin G. Hatch have been named as defendants in the case of Wagner v. United States Senate Committee on the Judiciary, et al., No. 1:03CV01225 (RMU), pending in the United States District Court for the District of Co-
lumbia;

Whereas, pursuant to sections 703(a) and 704(a)(3) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 208(b)(3) and 288(a)(1), the Senate may direct its counsel to defend in civil actions Committees of the Senate, and Members of the Senate relating to the United States Senate District Court for the District of Co-
lumbia;

Whereas, pursuant to sections 703(a) and 704(a)(3) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 208(b)(3) and 288(a)(1), the Senate may direct its counsel to defend in civil actions Committees of the Senate, and Members of the Senate relating to the Un-

It further asks that the trea-
ties be considered as having passed through various parliamentary stages up to and including the presentation of the resolutions of ratifica-
tion; that any committee conditions, declaration, or reservations be agreed to as applicable; that any statements in regard to these treaties be printed in the RECORD as if read; and that the Senate take one vote on the resolution of ratifications to be considered as separate votes; further, that when the res-
olutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate’s action, and that following the disposition of the treaties, the Sen-
ate return to legislative session.

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

The treaties will be considered to have passed through their various par-
liamentary stages up to and including the presentation of the resolutions of ratification.

The resolutions of ratification are as follows:

Resolutions of Ratification as approved by the Senate:

Agreement with Russian Federation con-
cerning Polar Bear Population (Treaty Doc. 107-10)

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a condition.

The Senate advises and consents to the ratification of the Agreement Between the Government of the United States of America and the Government of the Russian Federa-
tion on the Conservation and Management of the Alaska-Chukotka Polar Bear Population, done at Washington October 16, 2000 (T. Doc. 107-10, in this resolution referred to as the “Agreement”), subject to the condition in section 2, Exceptional Condition.

The advice and consent of the Senate to the ratification of the Agreement is subject to the condition that the Secretary of State shall promptly notify the Committee on En-
vironment and Public Works and the Commit-
te on Foreign Relations of the Senate in any instance that, pursuant to Article 3 of the Agreement, the Contracting Parties modify the area to which the Agreement ap-
plies. Any such notice shall include the text of the modification and information regard-
ing the reasons for the modification.

Agreement Amending Treaty with Canada Concerning Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty Doc. 108-1)

Resolved, (two-thirds of the Senators present concurring therein),

That the Senate advises and consents to the ratification of the Agreement Amending


Section 1. Senate Advice and Consent subject to Declaration.

The Senate advises and consents to the ratification of the Amendments to the 1987 Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America, with Annexes and Agreed Statements, done at Port Moresby, April 2, 1987, done at Koror, Palau, March 30, 1999, and at Kirimitari, Kiribati March 24, 2002 (T. Doc. 108–2, in this resolution referred to as the “Amendments”), subject to the declaration in section 2.

Sec. 2. Declaration.

The advice and consent of the Senate to the ratification of the Amendments is subject to the following declaration:

The advice and consent provided under section 1 is without prejudice to any position the Senate may take with respect to providing advice and consent to ratification of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, signed by the United States on September 9, 2000.


Section 1. Senate Advice and Consent subject to reservation.

The Senate advises and consents to the ratification of the Convention for the Unification of Certain Rules for International Carriage by Air, done at Montreal May 28, 1999 (T. Doc. 106–45, in this resolution referred to as the “Convention”), subject to the reservation in section 2.

Sec. 2. Reservation.

The advice and consent of the Senate to the ratification of the Convention is subject to the following reservation, which shall be included in the instrument of ratification:

Pursuant to §7 of the Convention, the United States of America declares that the Convention shall not apply to international carriage by air performed and operated by the United States of America for non-commercial purposes in respect to the functions and duties of the United States of America as a sovereign State.


That the Senate advise and consent to the ratification of the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, done at The Hague on September 28, 1955 (T. Doc. 107–14).

MR. SUNUNU. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolutions of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On division, two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

MONTREAL CONVENTION AND HAGUE PROTOCOL

Mr. BIDEN. Mr. President, I am pleased to support the Convention for the Unification of Certain Rules for International Carriage by Air, known as the Montreal Convention, which was ratified in 1999 by many countries after a negotiation and ratification conference in that city in 1999. The convention provides the basic liability framework for international aviation and the air carriage of cargo and baggage. When it enters into force, the current multinational system of liability to it, will replace the current liability system, known as the Warsaw system, which had its origins in a 1929 treaty known as the Warsaw Convention. Since 1929, the Warsaw Convention has been amended numerous times by various protocols. But membership in the convention and the various protocols has not been universal, creating a patchwork quilt of treaty relations between and among nations. The Montreal Convention is designed to provide a clear, consistent, and uniform system of liability insurance.

To its credit, the major airline carriers agreed, by contract, to waive the limitations for liability for passenger injury or death in 1996 in the IATA Inter-Carrier Agreement on Passenger Liability. Most of the airlines flying to and from the United States have taken this action, although several smaller airlines have not. The Montreal Convention will contain this inter-carrier agreement. Article 21 provides for payment, in cases of personal injury or death, of up to 100,000 Special Drawing Rights, currently about $140,000, for proven damages. Above that amount, there will be no limit on the amount an injured person or his or her heirs may obtain; the burden, under Article 21(2), will be on the air carrier to prove that it was not negligent or that the damage was solely due to the negligence or other wrongful act or omission of a third party.

The Montreal Convention also creates a “fifth jurisdiction” in addition to the four jurisdictions provided under the Warsaw system. This additional jurisdiction, set forth in Article 32(2), will ensure that in every case, Americans will be able to bring an action in a U.S. court.

The Montreal Convention contains several other provisions that modernize the legal framework for international air carriage and cargo. These provisions were drawn from those in Montreal Protocol No. 4 (to the Warsaw Convention), which the Senate approved in 1998.

The Montreal Convention is self-executing. No implementing legislation is required to fulfill U.S. obligations under it, and, like the Warsaw Convention, will provide the basis for a private right of action in U.S. courts for claims arising under it. Since the United States joined the Warsaw Convention in 1934, that convention has been the basis for hundreds of lawsuits in U.S. courts. Accordingly, a large body of judicial precedents has developed during the seven decades since the negotiators intended that, to the extent applicable, to preserve these precedents.

A question arises whether the judicial doctrine of forum non conveniens applies to cases under the Montreal Convention. The circuit courts of appeals in the United States are divided on this question with regard to the Warsaw Convention. Compare Hosaka v. United Airlines, Inc., 305 F.3d 989 (9th Cir. 2002), cert. denied, 123 S. Ct. 1284 (2003) with In re Air Crash Disaster Near New Orleans, La., No. 92–10088, 821 F.2d 1147 (5th Cir. 1987) (en banc), vacated and remanded on other grounds sub nom. Pan American World Airways, Inc. v. Lopez, 490 U.S. 1032 (1989).

At the diplomatic conference, the United States submitted an amendment to the draft text during a meeting of the “Friends of the Chairman’s Group” to make clear that the doctrine may be applied if consistent with the country’s procedural laws. See 1 International Civil Aviation Organization, International Conference on Air Law, Montreal 10–28 May 1999, at 159 (2001) (Advance Copy of Minutes). This provision was not incorporated in the final text of the Montreal Convention. The Committee on Foreign Relations did not address this issue in its deliberations.

The Senate is also considering the Hague Protocol of 1955, a protocol to the Warsaw Convention. It was first submitted to the Senate in 1967 and then returned to the President in 1967. The circumstances that led to the return of the Protocol related to the unreasonable low liability limits that I described earlier. The Protocol was resubmitted by President Bush in 2002.

The Protocol is still relevant for this reason: even with entry into force of the Montreal Convention, the Warsaw system will remain in force among many nations, probably for several years. The Hague Protocol contains many provisions modernizing the Warsaw’s systems rules on cargo shipment, and therefore remains important for shippers and consumers.

In 1998, the Senate approved Montreal Protocol No. 4, a protocol to the Warsaw Convention; the United States became a party to the Protocol in March 1999. At the time, it was presumed that, in doing so, the United States also became bound by the provisions of Article XVII of Montreal Protocol No. 4 that “[r]atification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State


Mr. President, the Montreal Convention is an important achievement, the culmination of many decades of effort by the United States and many U.S. citizens to remove the unreasonably low liability limits of the Warsaw Convention. I commend the Clinton Administration negotiators for their fine work in 1999, as well as the many officials of the State and Transportation Departments, before and after 1999, who have worked to develop this treaty and present it to the Senate. The Montreal Convention is supported by all the main interests in the private sector—the airlines, passenger groups, cargo firms, and attorneys representing passengers. It deserves the support of the Senate.

I want to thank Chairman LUGAR and his staff for bringing this treaty forward at this time, and for ensuring Senate action prior to the August recess. I urge all my colleagues to support the Montreal Convention and the Hague Protocol.
Senate passed H.R. 6, Energy Tax Policy Act.
Senate passed H.R. 2738, U.S.-Chile Free Trade Agreement.
Senate passed H.R. 2739, U.S.-Singapore Free Trade Agreement.

HIGHLIGHTS

**Senate**

**Chamber Action**

*Routine Proceedings, pages S10455–S10871*

**Measures Introduced:** Forty-eight bills and nine resolutions were introduced, as follows: S. 1506–1553, and S. Res. 207–215. Pages S10617–19

**Measures Reported:**

- S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies. (S. Rept. No. 108–119)
- H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, with an amendment in the nature of a substitute. (S. Rept. No. 108–121)
- S. 1053, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, with an amendment in the nature of a substitute. (S. Rept. No. 108–122)
- S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants. (S. Rept. No. 108–123)
- S. Res. 30, expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”.
- S. Res. 204, designating the week of November 9 through November 15, 2003, as “National Veterans Awareness Week” to emphasize the need to develop educational programs regarding the contributions of veterans to the country.
- S. 1177, A bill to ensure the collection of all cigarette taxes, with an amendment in the nature of a substitute.
- S. Con. Res. 25, recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month”, with an amendment in the nature of a substitute. Pages S10615–16

**Measures Passed:**

*Energy Tax Policy Act:* By 84 yeas to 14 nays (Vote No. 317), Senate passed H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, after agreeing to the following amendment proposed thereto:

Frist/Daschle Amendment No. 1537, in the nature of a substitute. Pages S10569–74

- Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate. Page S10570

*U.S.-Singapore Free Trade Agreement:* By 66 yeas to 32 nays (Vote No. 318), Senate passed H.R. 2739, to implement the United States-Singapore Free Trade Agreement. Pages S10585–86
U.S.-Chile Free Trade Agreement: By 66 yeas to 31 nays (Vote No. 319), Senate passed H.R. 2738, to implement the United States-Chile Free Trade Agreement.

Temporary Entry Provisions: Senate agreed to S. Res. 211, expressing the sense of the Senate regarding the temporary entry provisions in the Chile and Singapore Free Trade Agreements.

Emergency Supplemental Appropriations for Disaster Relief Act: Senate passed H.R. 2859, making emergency supplemental appropriations for the fiscal year ending September 30, 2003, clearing the measure for the President.

Children’s Health Insurance Program: Senate passed H.R. 2854, to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children’s Health Insurance Program, clearing the measure for the President.

Technical Correction: Senate passed S. 1547, to amend title XXI of the Social Security Act to make a technical correction with respect to the definition of qualifying State.

Family Farmer Bankruptcy Relief Act: Senate passed H.R. 2465, to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted, clearing the measure for the President.

Intelligence Authorization: Senate passed H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 1025, Senate companion measure, agreeing to the committee amendments (and considered as original text for purposes of further amendments), and the following amendment proposed thereto:

Sununu (for Roberts/Rockefeller) Amendment No. 1538, to make certain improvements to the bill.

Senate insisted on its amendments, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate.

Subsequently, S. 1025 was returned to the Senate calendar.

Higher Education Relief Opportunities for Students Act: Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 1412, to provide the Secretary of Education with specific waiver authority to respond to a war or other military operation or national emergency, and the bill was then passed, clearing the measure for the President.

James L. Watson U.S. Court of International Trade Building: Committee on Environment and Public Works was discharged from further consideration of H.R. 1018, to designate the building located at 1 Federal Plaza in New York, New York, as the “James L. Watson United States Court of International Trade Building”, and the bill was then passed, clearing the measure for the President.

Smithsonian Facilities Authorization Act: Senate passed H.R. 2195, to provide for additional space and resources for national collections held by the Smithsonian Institution, clearing the measure for the President.

Garner E. Shriver Post Office Building: Committee on Governmental Affairs was discharged from further consideration of H.R. 1761, to designate the facility of the United States Postal Service located at 9350 East Corporate Hill Drive in Wichita, Kansas, as the “Garner E. Shriver Post Office Building”, and the bill was then passed, clearing the measure for the President.

National Historically Black Colleges and Universities Week: Senate agreed to S. Res. 30, expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”.

National Veterans Awareness Week: Senate agreed to S. Res. 204, designating the Week of November 9 through November 15, 2003, as “National Veterans Awareness Week” to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

American Jewish History Month: Senate agreed to S. Con. Res. 25, recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month”, after agreeing to the following amendment proposed thereto:

Sununu (for Hatch) Amendment No. 1539, in the nature of a substitute.

National Missing Adult Awareness Month: Senate agreed to S. Res. 213, designating August 2003, as “National Missing Adult Awareness Month”.

Congratulating Lance Armstrong: Senate agreed to S. Res. 214, congratulating Lance Armstrong for winning the 2003 Tour de France.
Senate Legal Counsel: Senate agreed to S. Res. 215, to authorize representation by the Senate legal Counsel in the case of Wagner v. United States Senate Committee on the Judiciary, et al.

Energy Policy Act: Senate continued consideration of S. 14, to enhance the energy security of the United States, taking action on the following amendments proposed thereto: Pages S10469–S10526

Withdrawn:
Campbell Amendment No. 886, to replace “tribal consortia” with “tribal energy resource development organizations”.

Durbin Modified Amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Domenici Amendment No. 1412, to reform certain electricity laws.

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Frist Amendment No. 1432 (to instructions on motion to commit), to provide a national energy policy for the United States of America.

Frist Amendment No. 1433 (to instructions on motion to commit), to provide that all provisions of Division A and Division B shall take effect one day after enactment of this Act.

Frist Amendment No. 1434 (to Amendment No. 1433), to make a technical correction.

A unanimous-consent agreement was reached providing that S. 14 be returned to the Senate calendar and the scheduled cloture vote on the motion to commit be vitiated.

Nomination Considered: Senate continued consideration of the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

During consideration of this measure today, Senate also took the following action:

By 53 yeas to 44 nays (Vote No. 316), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the nomination.

Nomination—Cloture Vote Vitiated: A unanimous-consent agreement was reached providing that the scheduled cloture vote on the nomination of Carolyn B. Kuhl, of California, to be United States Circuit Judge for the Ninth Circuit, be vitiated.

Climate Stewardship Act—Agreement: A unanimous-consent-time agreement was reached providing that at a time determined by the Majority Leader, following consultation with the Democratic Leader, but no later than October 10, 2003, Committee on Environment and Public Works be discharged from consideration of S. 139, to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradable allowances that could be used interchangeably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances, and that the Senate then proceed to its consideration; that there be 6 hours of debate on the bill and amendment in the nature of a substitute; that the only amendment in order be a McCain/Lieberman amendment in the nature of a substitute; that upon the use or yielding back of all time, the amendment be agreed to, the bill as amended be read a third time, and Senate proceed to vote on passage of the bill.

Nominations Status—Agreement: A unanimous-consent agreement was reached providing that, notwithstanding paragraph 6 of Rule XXXI of the Standing Rules of the Senate, all pending nominations remain in status quo, during the upcoming adjournment of the Senate.

Treaties Approved: The following treaties having passed through their various parliamentary stages, up to and including the presentation of the resolution of ratification, upon division, two-thirds of the Senators present and having voted in the affirmative, the resolutions of ratification were agreed to:


Agreement Amending Treaty with Canada Concerning Pacific Coast Albacore Tuna Vessels and Port Privileges Treaty Doc. 108–1;

Amendments to the 1987 Treaty on Fisheries with Pacific Island States Treaty Doc. 108–2 with one declaration;

Convention for International Carriage by Air Treaty Doc. 106–45 with one reservation;


Nominations Confirmed: Senate confirmed the following nominations:

By unanimous vote of 96 yeas (Vote No. EX. 320), James I. Cohn, of Florida, to be United States District Judge for the Southern District of Florida.

Pages S10527–28, S10589–90
By unanimous vote of 95 yeas (Vote No. EX. 321), Frank Montalvo, of Texas, to be United States District Judge for the Western District of Texas.

Stanley C. Suboleski, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2006.

W. Scott Railton, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2007.

Lawrence Mohr, Jr., of South Carolina, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2009. (Reappointment)

Eric S. Dreiband, of Virginia, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

Diane M. Stuart, of Utah, to be Director of the Violence Against Women Office, Department of Justice. (New Position)

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008. (Reappointment)

Annette Sandberg, of Washington, to be Administrator of the Federal Motor Carrier Safety Administration.

Joe D. Whitley, of Georgia, to be General Counsel, Department of Homeland Security. (New Position)

James O. Browning, of New Mexico, to be United States District Judge for the District of New Mexico.

H. Brent McKnight, of North Carolina, to be United States District Judge for the Western District of North Carolina.

Xavier Rodriguez, of Texas, to be United States District Judge for the Western District of Texas.

Karen P. Tandy, of Virginia, to be Administrator of Drug Enforcement.

Michael Young, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008.

Donald K. Steinberg, of California, to be Ambassador to the Federal Republic of Nigeria. (Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

Constance Albanese Morella, of Maryland, to be Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador. (Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

Joel David Kaplan, of Massachusetts, to be Deputy Director of the Office of Management and Budget.

Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2009. (Reappointment)

George H. Walker, of Missouri, to be Ambassador to the Republic of Hungary. (Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

26 Air Force nominations in the rank of general.

4 Army nominations in the rank of general.

2 Marine Corps nominations in the rank of general.

8 Navy nominations in the rank of admiral.


Measures Held Over/Under Rule: Page S10611

Executive Communications: Pages S10611–14

Petitions and Memorials: Pages S10614–15

Executive Reports of Committees: Page S10616

Additional Cosponsors: Pages S10619–21

Statements on Introduced Bills/Resolutions: Pages S10621–91

Additional Statements: Pages S10609–11

Amendments Submitted: Pages S10691–S10837

Notices of Hearings/Meetings: Page S10837

Authority for Committees to Meet: Pages S10837–38

Privilege of the Floor: Page S10838

Record Votes: Six record votes were taken today. (Total—321)

Pages S10468–69, S10570, S10586–87, S10588, S10590

Recess: Senate met at 9 a.m., and recessed at 11:08 p.m., until 9:30 a.m., on Friday, August 1, 2003. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S10527.)

Committee Meetings

(Committees not listed did not meet)

COAL DUST

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded hearings to examine the proposed Mine Safety and Health Administration (MSHA) rule on coal dust, after receiving testimony from David D. Lauriski, Assistant Secretary of Labor for Mine Safety and Health; Joseph A. Main, United Mine Workers of America, Fairfax, Virginia; and
David Beerbower, Peabody Energy Corporation, St. Louis, Missouri, on behalf of the National Mining Association.

**OVERTIME PAY**

*Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies* concluded hearings on a proposed rule on overtime pay, after receiving testimony from Tammy D. McCutchen, Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor; Christine Owens, AFL–CIO, and Ross Eisenbrey, Economic Policy Institute, both of Washington, D.C.; and Lawrence Lorber, Proskauer Rose, New York, New York, on behalf of the U.S. Chamber of Commerce.

**UNION FINANCIAL REPORTING AND DISCLOSURE**

*Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies* concluded hearings to examine labor union financial reporting and disclosure, after receiving testimony from Victoria Lipnic, Assistant Secretary of Labor for Employment Standards; Jonathan Hiatt, AFL–CIO, Washington, D.C.; Jay Cochran, George Mason University Mercatus Center, Arlington, Virginia; and Lynn Turner, Colorado State University Center for Quality Financial Reporting, Fort Collins.

**IRAQ SURVEY GROUP**

*Committee on Armed Services: Committee met in closed session* to receive a briefing on the work of the Iraq survey group from David Kay, Special Adviser for Strategy Regarding Iraqi Weapons of Mass Destruction Program; Major General Keith W. Dayton, USA, Director, Iraq Survey Group; Major General John F. Kimmons, USA, former Director of Intelligence, U.S. Central Command; and Major General James A. Marks, USA, former Director of Intelligence, Coalition Forces Land Component Command, all of the United States Army.

**BUSINESS MEETING**

*Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following bills:*

- **S. 627**, to prevent the use of certain payments instruments, credit cards, and fund transfers for unlawful Internet gambling, with an amendment in the nature of a substitute; and
- **H.R. 659**, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals, with an amendment in the nature of a substitute.

**FAIR CREDIT REPORTING ACT**

*Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine measures to enhance the operation of the Fair Credit Reporting Act, focusing on a proposed National Security Alert System, prohibition on the sale or transfer of identity theft debt, adverse action notices, private enforcement rights and agency enforcement, tools to protect privacy, mortgages, credit availability, and prescreening, and the importance of national uniformity to the security of consumers’ personal information, after receiving testimony from John W. Snow, Secretary of the Treasury; and Edmund Mierzwinski, U.S. Public Interest Research Group, and Michael F. McEneney, Sidney Austin Brown and Wood, on behalf of the U.S. Chamber of Commerce, both of Washington, D.C.*

**BUSINESS MEETING**

*Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following bills:*

- **S. 150**, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, with an amendment in the nature of a substitute;
- **S. 1478**, to reauthorize the National Telecommunications and Information Administration; and
- **S. 733**, to authorize appropriations for fiscal year 2004 for the United States Coast Guard, with an amendment in the nature of a substitute.

**ICANN**

*Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine the Internet Corporation for Assigned Names and Numbers (ICANN), focusing on consumer issues, computer security and stability, root server systems, continued globalization of the internet, innovation in services and processes, the proposed Wait List Service, and new top-level domains, after receiving testimony from Nancy J. Victory, Assistant Secretary of Commerce for Communications and Information, National Telecommunications and Information Administration; Paul Twomey, Internet Corporation for Assigned Names and Numbers, Marina del Rey, California; Aristotle Balogh, VeriSign, Dulles, Virginia; Alan B. Davidson, Center for Democracy and Technology, Washington, D.C.; and Paul Stahura, ENom, Inc., Bellevue, Washington.*

**NOMINATIONS**

*Committee on Finance: on July 30, 2003 Committee concluded hearings to examine the Nominations:*
Robert Stanley Nichols, of Washington, to be Assistant Secretary for Public Affairs, and Teresa M. Ressel, of Virginia, to be Assistant Secretary for Management, both of the Department of the Treasury, after the nominees testified and answered questions in their own behalf.

NORTH KOREA

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs met in closed session to receive a briefing on corruption in North Korea’s economy.

NORTH KOREA

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs concluded hearings to examine corruption in North Korea’s economy, after receiving testimony from Nicholas Eberstadt, American Enterprise Institute, and Michael J. Horowitz, Hudson Institute, both of Washington, D.C.

FINANCING TERRORISM

Committee on Governmental Affairs: Committee concluded hearings to examine Federal efforts in identifying, tracking and dismantling the financial structure supporting terrorist groups, focusing on Saudi Arabia and the War on Terrorism, the USA PATRIOT Act and other related legislation, Executive Branch organizational changes, foundations of terrorist financing and support, the effect of the May 12, 2003 Riyadh attacks, multilateral actions against Al-Qaeda and other terrorist infrastructure, and the ideological roots of the new terrorism, after receiving testimony from John S. Pistole, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, Department of Justice; R. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury; Dore Gold, Jerusalem Center for Public Affairs, Jerusalem, Israel, former Israeli Ambassador to the United Nations; Steven Emerson, Investigative Project, Washington, D.C.; and Jonathan M. Winer, Alston and Bird, Atlanta, Georgia, former Deputy Assistant Secretary of State and member, Independent Task Force of the Council on Foreign Relations on Terrorist Finance.

HIV/AIDS PANDEMIC


BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1177, to ensure the collection of all cigarette taxes, with an amendment in the nature of a substitute;

S. Res. 30, expressing the sense of the Senate that the President should designate the week beginning September 14, 2003, as “National Historically Black Colleges and Universities Week”;

S. Con. Res. 25, recognizing and honoring America’s Jewish community on the occasion of its 350th anniversary, supporting the designation of an “American Jewish History Month”, with an amendment;

S. Res. 204, designating the week of November 9 through November 15, 2003, as “National Veterans Awareness Week” to emphasize the need to develop educational programs regarding the contributions of veterans to the country;

The nominations of Steven M. Colloton, of Iowa, to be United States Circuit Judge for the Eighth Circuit; P. Kevin Castel, to be United States District Judge for the Southern District of New York; Sandra J. Feuerstein, to be United States District Judge for the Eastern District of New York; Richard J. Holwell, to be United States District Judge for the Southern District of New York; R. David Proctor, to be United States District Judge for the Northern District of Alabama; Stephen C. Robinson, to be United States District Judge for the Southern District of New York; and Rene Acosta, of Virginia, to be an Assistant Attorney General, Daniel J. Bryant, of Virginia, to be an Assistant Attorney General, and Paul Michael Warner, of Utah, to be United States Attorney for the District of Utah, all of the Department of Justice.

Also, committee resumed consideration of S.J. Res. 1, proposing an amendment to the Constitution of the United States to protect the rights of crime victims, but did not complete action thereon, and recessed subject to the call.

FORENSIC SCIENCES

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts concluded hearings to examine activities of the Administration and the Department of Justice relating to the use of DNA technology, including forensic tools and techniques, to solve crimes and promote public safety, focusing on a DNA initiative to improve the use of DNA technology in the criminal justice system by
CONGRESSIONAL RECORD—DAILY DIGEST

providing funds, training, and assistance, after re-
ceiving testimony from Sarah V. Hart, Director, Na-
tional Institute of Justice, Department of Justice;
Susan Hart Johns, Illinois State Police, Springfield,
on behalf of the American Society of Crime Labora-
tory Directors; Randall Hillman, Alabama District
Attorney’s Association, Montgomery; Frank J. Clark,
Erie County District Attorney, Buffalo, New York;
Michael M. Baden, Medicolegal Investigative Unit,
New York State Police, former Chief Forensic Pa-
thologist for the House of Representatives Select
Committee on Assassinations, and Peter Neufeld,
Benjamin N. Cardozo School of Law, both of New
York, New York; and Rosemary Serra, New Haven,
Connecticut.

INTELLIGENCE
Select Committee on Intelligence: Committee held closed
hearings on intelligence matters, receiving testimony
from officials of the intelligence community.
Committee recessed subject to call.

House of Representatives

Chamber Action
The House was not in session today. Pursuant to
the provisions of H. Con. Res. 259, providing for a
conditional adjournment of the House of Represen-
tatives and a conditional recess or adjournment of the
Senate, it stands adjourned until 2 p.m. on Wednes-
day, September 3, 2003.

Committee Meetings
No Committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D919)
S. 246, to provide that certain Bureau of Land
Management land shall be held in trust for the
Pueblo of Santa Clara and the Pueblo of San
Ildefonso in the State of New Mexico. Signed on

COMMITTEE MEETINGS FOR FRIDAY,
AUGUST 1, 2003
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Armed Services: to hold a closed briefing re-
garding the situation in Liberia, 10:30 a.m., S–407, Cap-
itol.
Committee on the Judiciary: to hold hearings to examine
the Greater Access to Affordable Pharmaceuticals Act,
9:30 a.m., SD–226.

House
No Committee meetings are scheduled.

Joint Meetings
Commission on Security and Cooperation in Europe: to hold
hearings to examine issues with respect to missing per-
sons in Southeast Europe, 9:15 a.m., 334 CHOB.

CORRECTIONS
Note. The following errors were printed in the Congressional Record,
dated July 17, 2003, Vol. 149, No. 106

Senate

On page S9672, the third column, fourth para-
graph Mr. Stevens should be listed as the first con-
feree. In the same paragraph Ms. Collins should be
replaced with Mr. Hollings.

On page S9582, the first column, tenth para-
graph, fifth line to the end, should read: pitals that
already exist. Nor was it the intent of the Com-
mittee to apply the prohibition to those facilities
which, meeting specified criteria, are under construc-
tion currently. On page S9582, the second column,
third paragraph, fourth line should read: would not
apply to facilities which, provided they meet certain
criteria, are
Next Meeting of the Senate
9:30 a.m., Friday, August 1

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the House of Representatives
4 p.m., Friday, August 1 *

House Chamber

* Program for Friday: The House stands adjourned until 4 p.m. on Friday, August 1, 2003, unless it sooner has received a message from the Senate transmitting an amendment to H. Con. Res. 259 in the form that was reported at the desk, in which case the House shall be considered to have concurred in such amendment and shall stand adjourned until 2 p.m. on Wednesday, September 3, 2003.