The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Bonilla).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker: Washington, DC, July 27, 2005.
I hereby appoint the Honorable Henry Bonilla to act as Speaker pro tempore on this day.
J. Dennis Hastert, House of Representatives.

PRAYER
The Reverend Lawrence Hargrave, Colgate Rochester Crozer Divinity School, Rochester, New York, offered the following prayer:

God, we thank You for this new day before us, the gift of the days past, and the grace that has brought us thus far. We in this place are blessed beyond measure. We who have been created in Your image have the charge to love You and love our neighbors. You have given us the ability to end hunger, eradicate disease, eliminate poverty, and emulate peace.

God, we pray for the will to do so. Help us to remember the least, the lost, and the left out. Please give us the courage to stand for justice for all.

God, let our love for one another be our witness to who You are. God, let justice roll down like water and righteousness like an ever-flowing stream. You have told us to “do justice, love mercy, and walk humbly with our God.” Let us begin again with You today. Amen.

THE JOURNAL
The SPEAKER pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.
Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE
The SPEAKER pro tempore. Will the gentleman from Florida (Mr. Weldon) come forward and lead the House in the Pledge of Allegiance.
Mr. Weldon of Florida led the Pledge of Allegiance as follows:
I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNIZING AND WELCOMING THE REVEREND LAWRENCE HARGRAVE
(Ms. Slaughter asked and was given permission to address the House for 1 minute.)
Ms. Slaughter. Mr. Speaker, it is my great pleasure to recognize and welcome Reverend Lawrence Hargrave, one of my constituents but, moreover, a friend and a mentor to be the guest chaplain in the House of Representatives today.

I am extremely proud of Reverend Hargrave, not only for his heartfelt prayer service this morning, but for his continued commitment to the Rochester community.
Lawrence Hargrave completed his degree in sociology from SUNY Buffalo in 1969. Remarkably, after working for almost 30 years in the private sector, he answered the call for service and completed a Master’s of Divinity from Colgate Rochester Crozer Divinity School. Reverend Hargrave is currently the acting dean of Black Church Studies at the school and is the associate minister at Mt. Olivet Baptist Church in Rochester.
As a dedicated community servant, Reverend Hargrave is committed to interfaith discussion and dialogue. Specifically, he serves on the Rochester Interfaith Jail Ministry Board of Directors and is a member of the Commissions on Christian-Muslim and Christian-Jewish Relations.

On behalf of the House of Representatives, I thank Reverend Hargrave for being here with us this morning, and I ask my colleagues to join me in honoring Reverend Hargrave for his years of faithful service to the people of New York and to his God.

URGING SUPPORT FOR THE EMPLOYER VERIFICATION ACCOUNTABILITY ACT
(Mrs. Blackburn asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)
Mrs. Blackburn. Mr. Speaker, I am rising this morning to talk about a piece of legislation that I have recently introduced. It is H.R. 3262; and it is called EVAA, the Employer Verification Accountability Act.
Mr. Speaker, one of the things we are hearing in our district that is such a problem is illegal immigration, the impact that illegal immigration has on jobs, on the economy, on our district. And this is one of those pieces of legislation that is designed to help us have another tool to fight illegal immigration.

Very simply, what it does is this: The 1986 Immigration Enforcement Act puts in place fines for employers who knowingly and willingly hire illegal immigrants to work in their businesses. This act would prohibit them from violating.

I would like to commend this legislation to the body and invite the Members to join me cosponsoring H.R. 3262.
CAPTA: A RAW DEAL FOR AMERICA

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today because CAFTA is a raw deal for America, and opposition to this agreement is so strong that the pushers of CAFTA are resorting to lies, deceptions, and backdoor deals.

All week long we have heard from the supporters of this badly negotiated trade agreement that they have the votes they need to pass it. But I do not want anybody to be fooled and buy this lie. The truth is that the overwhelming majority of House Members have already indicated that they oppose this bill because it is a bad deal for American workers.

They will not even tell us when CAFTA will come to the floor for a vote. Instead, we come to see CAFTA come deceptively to the floor in the middle of the night when they think the American public is not watching. I urge my colleagues to vote their conscience, not to accept backdoor deals, to stand their ground. Vote for the American public is not watching. Vote for the American public is not watching.

We all know that CAFTA means exporting American jobs because of access to cheap labor markets with almost no competition. This also means environmental and labor standards.

IN SUPPORT OF THE ENERGY CONFERENCE REPORT

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I am very proud to report that some-thing this morning we are going to file the energy conference report. This is a piece of legislation that both parties support. Mr. Speaker, it is time we give prescription drugs, Mr. Speaker, it is time we give them a break and a vote on reimportation of pharmaceutical products. That is how we recognize health care costs.

Mr. BLUMENAUER of California. Mr. Speaker, the stars have aligned. Senator Frist has agreed to a vote on drug reimportation. That is how we recognize health care reform and Health Care Week and make a dent in skyrocketing health care costs. Now we are getting somewhere.

I should not have to remind Members of this body that in the last Congress we were in the House, we passed reimportation with a bipartisan majority. It is time now for an up-or-down vote in this House. In the very week we are debating health care reform, only 1 week, I might add, what is conspicuously absent? These backdoor deals which actually would help control costs of drugs and pharmaceutical products, the re-importation, providing Americans with a 50 percent reduction in the price of their prescription drugs.

Mr. Speaker, I urge my colleagues to vote their conscience, to not accept backdoor deals, to stand their ground. Vote for the American public is not watching. Vote for the American public is not watching.

Mr. BARTON of Texas. Mr. Speaker, I rise today to salute the men and the crew of Discovery who are completing their mission, we here in the House of Representatives, and I am sure every American can join me in this, wish Distaff Collins and a safe return to planet Earth.

PRESCRIPTION DRUG REIMPORTATION

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, the stars have aligned. Senator Frist has
CAFTA
(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)
Mr. PASCRELL. Mr. Speaker, NAFTA is the template on which this CAFTA agreement has been forged. Let us use the documented results of NAFTA to predict what will happen if Congress passes this latest flawed trade agreement.
Workers will see a decrease in real wages. The statistics are very clear.
□ 1015
Number 2, CAFTA cannot reduce the number of immigrants. In fact, quite the contrary. What we have had in Mexico, for instance, as our prime example is 1.3 million agricultural jobs were lost to NAFTA. Look at the commitments, look at the promises by the past administration, by this administration, and what we have done is increased immigration across the borders. Some of our friends are talking out of both sides of their mouths.
The gap between the rich and the poor will increase. The redistribution of wealth upward will be exacerbated here in the United States under CAFTA, because more family wage jobs will be sent overseas, replaced by low-wage, Wal-Mart-type service jobs. Get it?
Those who ignore history are doomed to repeat it. If CAFTA passes, doom will be the operative function of this Congress.
MYTHS AND FACTS ON REPUBLICAN MEDICAL MALPRACTICE LEGISLATION
(Ms. SOLIS asked and was given permission to address the House for 1 minute.)
Ms. SOLIS. Mr. Speaker, I would like to debunk a couple of myths that we will probably hear today driving the debate over medical malpractice, H.R. 5.
Myth number 1: There is an explosion of medical malpractice lawsuits that are driving up premiums. Not true. A study by Kaiser Family Foundation found that lawsuits are not the cause of doctors' high premiums. In fact, another recent study found that insurers increased their premiums while claims went down.
Myth number 2: Malpractice lawsuits are the cause of rising health care costs. Not true. According to the CBO, malpractice costs amount to less than 2 percent of overall health care spending. Thus, even a reduction of 25 to 30 percent in malpractice costs would lower health care costs by a minuscule 5 percent.
Myth number 3: The malpractice bill is about weeding out frivolous lawsuits. Not true. The proposed limits on damages would apply to all cases, no matter how serious the injury was or how egregious by the doctor, hospital, nursing home, or drug manufacturer.
Any time we are talking about taking away the rights of Americans, you have to be measured and cautious, something House Republicans are unwilling to do.
I urge my colleagues to vote "no" on H.R. 5.
GOP SOCIAL SECURITY PLAN CUTS BENEFITS AND CONTINUES TO RAID THE SOCIAL SECURITY TRUST FUND
(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)
Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, last month a few congressional Republicans unveiled a Social Security privatization plan that cuts guaranteed Social Security benefits and continues to raid the Social Security Trust Fund.
The Republican majority’s Social Security plan includes a privatization tax that would cut guaranteed benefits for the people who need them most. This effectively replaces part of our guaranteed benefit with a private account and leaves us worse off, depending on the whims of the stock market. And anybody who has had stock during the last 2 years knows what that is.
Then, instead of raiding the Social Security Trust Fund, the Republican majority plans to take money out of the trust fund to pay for private accounts. The same congressional Republicans will raid $670 billion more from the Social Security Trust Fund to pay for tax breaks for the wealthy.
Mr. Speaker, we cannot continue this same type of abuse. We urge all of the Members to look twice at Social Security and save it for the people.
INSURANCE COMPANIES RESPONIBLE FOR HUGE MALPRACTICE INSURANCE PREMIUMS, NOT INJURED PATIENTS
(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)
Mrs. CHRISTENSEN. Mr. Speaker, today the House will vote on legislation Republicans claim will help doctors and help reduce the cost of health care. As a family doctor, I know their rhetoric could not be further from the truth.
Republicans say that capping what an injured patient can receive in compensation is the cure-all to our health care woes, but they ignore one essential fact, that it is the insurance industry, not payments to patients, that is chasing doctors out of their offices.
A report released in May shows that the 15 leading malpractice insurers increased their premiums on doctors by 120 percent. No surprise there. What is surprising is that the insurance companies’ own documents show that payouts over this same period stayed flat, increasing by less than 6 percent, and some companies’ payouts went down.
This just confirms what every reliable study has shown: There is no explosion of malpractice claims or payouts. They are not the cause of rising premiums. It appears insurance rates are the major problem.
The Republicans refuse to talk about insurance reform. There is not one word in H.R. 5 about the insurance industry. Rather than really addressing the problem, Republicans would rather limit the rights of injured patients.
Vote "no" on H.R. 5.
SPECIAL PROSECUTOR WIDENS INVESTIGATION INTO CIA AGENT IDENTITY SCANDAL
(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. PALLONE. Mr. Speaker, for 2 years now, the White House has engaged in a cover-up of who leaked the identity of an undercover CIA agent. Two years ago, President Bush said he wanted to know who had leaked Valerie Plame’s identity to reporters, and he said whoever it was would be fired.
Today I learned the special prosecutor has widened his investigation to look into why laws were broken when the White House tried to discredit allegations that President Bush used faulty intelligence to justify the Iraq war.
Now, this entire investigation centers around national security, White House officials jeopardized our national security when they outing a CIA agent’s name. They also jeopardized our national security when they tried to discredit anyone who did not support their faulty intelligence that took us to war in Iraq.
Mr. Speaker, this investigation should never have been needed in the first place. If the President’s words had meant something, this would have been completed a long time ago.
KEEPING AMERICAN IDEALS ALIVE THROUGH CAFTA
(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)
Mr. PENCE. Mr. Speaker, 20 years ago, the Caribbean and Central America were inflamed with a virus that we called communism. It was in its ascendency. Thanks to the courageous vision and leadership of President Ronald Reagan and many on both sides of the aisle in this Congress, the people of the United States of America invested in the ascendency.
Now, 20 years hence, we see fledgling democracies, even democracies that have sent soldiers to stand with our soldiers in Operation Iraqi Freedom. It is that nightmare that turned into a dream of democracy that is at stake today in the vote on the Central American Free Trade Agreement.
Having stood with those who stood for freedom 20 years ago, let us not in this Congress and in this Nation turn our backs today on those same fledgling democracies that are embracing our principles of free market economics and freedom. Say yes to freedom in
Central America. Vote “yes” on CAPTA, and keep the dream of ever-expanding democracy and American ideals in our hemisphere alive.

ENERGY BILL IS SUBSIDY FEST
(Mr. DeFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DeFAZIO. Mr. Speaker, the Wall Street Journal yesterday: It is bad enough that the energy bill has become a subsidy fest that will raise gasoline prices in more places than it reduces them, and they go on from there.

The so-called energy policy to be adopted tomorrow will raise prices at the pump for American consumers, it will increase our dependence, and this is from the Bush administration’s own projections over the next 20 years on foreign oil, on Saudi Arabia and those other wonderful folks in the Middle East.

It will do nothing to mandate increases in fuel efficiency so American consumers will have better choices. It will not fund any significant amount of money for alternative fuel research or alternative technologies, or transition technologies to move us to energy self-sufficiency.

Finally, guess what? We are going to write the American people a bill for this piece of work. The American people are going to be asked to borrow $15 billion and give it as a gift to the suffering oil, gas, and coal industry, those who have cash reserves that exceed the subsidy that they are about to get.

SMALL BUSINESSES NEED HEALTH COVERAGE
(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise to applaud the House for passing H.R. 525, the Small Business Health Fairness Act of 2005 yesterday, which will help provide better access to health care coverage for small businesses.

Small businesses and self-employed citizens have long been an integral and valuable part of the American economy. We should assist in their growth and improvement in whatever ways we can.

The primary achievement of this bill will be the establishment of certified Federal Association Health Plans, or AHPs. AHPs will increase small business bargaining power with health care providers and allow them to offer the kind of health care coverage that big business has long been able to provide.

Second, AHPs will give employers freedom from costly State-mandated benefit packages. Taken together, these features of the new AHPs will enlarge the number of insured Americans up to 8 million people.

As Business Week reports, we are working to increase the number of insured Americans, since as many as one in seven Americans is uninsured. Moreover, the most recent U.S. census statistics show that increases in the number of uninsured employees comes solely from declining coverage in the small business sector.

The Small Business Health Fairness Act is a strong step in the right direction, and I am pleased to have passed it.

Cooking the books.

CAFTA WILL CAUSE LOSS OF MANUFACTURING JOBS IN THE UNITED STATES
(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the House of Representatives today or tonight will vote on ratifying the Central American-Dominican Republican Free Trade Agreement, also known as CAFTA. This treaty will follow earlier free trade agreements. These agreements caused the poor in all countries to do worse and the wealthy and the rich to do better.

I have traveled, not as a Member of Congress, in a lot of these other countries, particularly Costa Rica, which is a beautiful country with great and friendly people. This CAFTA follows NAFTA and will cause loss of jobs in manufacturing in our country as well as the CAFTA-DR countries, just like it hurt the average folks in Mexico and in our own country.

This CAFTA is not a dream, as it is called; it is really going to be a nightmare if you are a blue-collar worker in our country or in one of these countries.

HEALTH CARE WEEK
(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in honor of Health Care Week. Access to affordable health care is one of the most pressing issues facing America today. I applaud our leadership for bringing important legislation to the floor this week that will strengthen access to care for all Americans.

Mr. Speaker, there is no one-size-fits-all solution for America’s health care needs. Instead, we must give our citizens the access and ability to choose from a range of care options.

This week we are voting on legislation to help small businesses provide their workers with affordable health insurance. We are voting on legislation that limits the frivolous medical malpractice lawsuits that are driving doctors out of practice and making it harder for Americans to find care. We are voting on legislation to improve patient safety and a resolution pledging our support for the community health centers that so many rely on for their care.

Mr. Speaker, all of these initiatives speak volumes to the importance congressional Republicans have placed on health care. For us, every week is Health Care Week, and I am proud of our accomplishments on this important issue.

CAFTA WILL ENSLAVE THE CHILDREN OF CENTRAL AMERICA
(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, CAFTA or NAFTA? Most of the American people are confused about this debate on the floor of the House, and I say to my colleagues who will engage in a very limited debate somewhere toward midnight that this may be one of the more challenging votes of this Congress. It is a vote that calls upon your conscience, and I will simply say these few words: Once we vote for CAFTA, we will reinforce the child labor standards and laws and lack of laws in Central America. You will be sending the 3-year-olds, the 4-year-olds, the 5-year-olds into the hard labor of picking agricultural products with no supervision and no regulations whatsoever.

My heart, my conscience refuses to allow me to vote for CAFTA, a free trade bill that will enslave the children of Central America. I will vote a resounding “no,” and I ask my corporate leaders in America to stand alongside one of us who want the kind of trade bill that addresses the child slavery in Central America, forcing girls and boys to work without any, without any, hope and aspirations and the ability to survive.

Vote “no” on CAFTA.

THE HEALTH ACT, COMMON SENSE REFORM
(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON. Mr. Speaker, as insurance premiums continue to rise, doctors, hospitals and other health care providers across the country have been forced to severely limit their practices or close their doors. Until we address this issue with commonsense reforms, many doctors will be unable to afford to serve their communities, and patients will find it increasingly difficult to obtain needed health care.

Today, thanks to the strong leadership of my colleague, the gentleman from Georgia (Mr. GINGREY), Congress has the unique opportunity to address the medical liability crisis occurring throughout our Nation.

The HEALTH Act of 2005 safeguards patients’ rights to care through commonsense reforms. First, it promotes the speedy resolution of claims and fairly allocates damages. Second, the
HEALTH Act accurately compensates patient injuries and maximizes patient recovery. Finally, this legislation places reasonable limits on punitive damages and ensures the payment of medical expenses and respects States' rights.

By passing the HEALTH Act of 2005, we will help ensure that doctors spend their time addressing the real needs of American patients.

In conclusion, God bless our troops, and we will never forget September 11.

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CAFTA

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, America must build relationships with our neighbors, relationships that benefit both our future and theirs. But CAFTA is one more example of the White House agenda that does neither. It benefits multinational corporations while it devalues workers and communities, putting corporations on equal footing with democratically elected governments. What is this about?

Trade agreements should reflect our national values and our character. CAFTA fails on both measures. Labor and environmental standards must be an integral part of any trade and negotiation, and CAFTA fails. By failing to protect labor and environmental standards, CAFTA not only benefits the multinational corporations against our communities, our families, and our environment, but it also works against our trading partners. We know that this is wrong.

We must get CAFTA back on track. We must scrap this version, and we must start over. Trade agreements that promise jobs in the U.S. as well as advancing the economies of our neighbors, is how we must go. Vote against this dog today.

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CAPTA GOOD FOR WORKERS AND CONSUMERS OVER THE LONG RUN

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, CAFTA has received a lot of criticism from many on the other side, but sometimes critics can be wrong. Does free trade present challenges to consumers and workers? Absolutely. Is it the death knell for manufacturers or textile makers? By no means.

I believe American workers, American products, American ingenuity can compete with any other nation on the planet, and free trade enables us to do it. In so doing, it lowers costs for consumers and jobs coming into this country.

We have all dealt with the pain of local factories shutting down and businesses closing, and it is tragic whenever it happens. But the fact is that even without free trade, businesses close. Free trade makes sure we have a level of capital and jobs coming into the Nation.

So should we compete in the global economy or let it pass by? I think we should compete. I choose more and better jobs for our constituents. And, Mr. Speaker, this is also a matter of national security. Vote for CAFTA.

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PRESIDENT PUTTING POLITICS ABOVE NATIONAL SECURITY

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, 2 years ago, President Bush told the American people, if there were a leak out of my kitchen that I wanted to know who it is. That was 2 years ago. It clearly was not a top priority, because if the President really wanted an answer to that question, he would have it by now.

When someone in the White House leaked Plame’s identity, they compromised hundreds of intelligence investigations that are now taking place around the world; this at a time when our intelligence-gathering plays a critical component to our national security.

The outing of a CIA agent should be a concern to us all. The President’s own father realized the serious implications of outing covert agents. He went as far as to call them almost assassination attempts. Now his son refuses to find out who leaked Valerie Plame’s name.

President Bush can continue to state that he wants to wait for the grand jury to finish its investigation; but if this was indeed a top priority for the President, he would have an answer by now.

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DR-CAFTA

(Ms. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, I rise today to encourage my colleagues to pass the Dominican Republic-Central American Free Trade Agreement. I have spoken here many times on the benefits of this bill and what it would bring to our Nation and to the State of Florida, but let us remember also the benefits of free trade flow both ways.

Not only would expanded trade opportunities help American businesses, agricultural products, ranchers, and workers by removing expensive trade impediments and leveling the trade playing field; but also with improved conditions, we can look forward to a time when the threat of illegal narcotics, human smuggling, illegal immigration, and other criminal activities is no longer part of the fabric of life in Central America, Mexico, and our southern United States border.

Such a development would contribute to the security of the United States and all of our partners in this hemisphere and would greatly benefit the people of Central America. With greater development, it will contribute to more political stability and a strengthened rule of law for our partners in the DR-CAFTA region, a region that has suffered under the heels of civil war and political corruption for far too long.

With expanded trade, the people of the Central American region will enjoy a higher standard of living and greatly improved work conditions. In the 1980s, Congress cast difficult votes to militarily assist these nations to foster fledgling democracies. Today, these efforts have proven successful, and we are willing to expand our trade opportunities.

Mr. Speaker, I urge my colleagues to support this critical politically stabilizing act.

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CONGRATULATIONS ON CONFERENCE REPORTS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, it has indeed been an incredible week in this Congress, where we have seen the conference reports for the energy bill and the highway bill both completed, and likely they will come to this House this week.

I want to thank the chairman on the Committee on Energy and Commerce, the gentleman from Texas (Mr. Barton), who worked so hard on the energy bill. The chairman was fair and listened to all sides of every argument, and I believe he has produced a balanced bill.

The fact is, Mr. Speaker, we can neither drill nor conserve our way to energy independence, and indeed this bill addresses that fact and also applies significant attention to alternative energy sources as well as hybrid technology.

I want to thank the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. Young), for pushing so long on a process that was frequently derailed by politics in the highway bill. I believe he also has got a good product and a product that we can afford. On the 50th anniversary of the interstate highway system, I believe it is appropriate we will be voting to extend the highway reauthorization act this week.

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MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:
S. 47. An act to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico.
S. 52. An act to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.
S. 53. An act to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability of four National historic trails, and for other purposes.
S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.
S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.
S. 97. An act to provide for the sale of bentonite in Big Horn County, Wyoming.
S. 101. An act to convey to the town of Frannie, Wyoming, certain land withdrawn by the Commissioner of Reclamation.
S. 128. An act to designate certain public land in Humboldt, Del Norte, Mendocino, Lake, and Napa Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.
S. 136. An act to authorize the Secretary of the Interior to provide supplemental funding and other resources necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Yellowstone National Park, and for other purposes.
S. 152. An act to enhance ecosystem protection and the range of outdoor opportunities provided by designated segments of the Black Butte River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes.
S. 153. An act to direct the Secretary of the Interior to conduct a resource study of the Rim of the Valley Corridor in the State of California to evaluate alternatives for protecting the resources of the Corridor, and for other purposes.
S. 156. An act to designate the Ojito Wilderness of New Mexico as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.
S. 161. An act to provide for a land exchange between the State of Arizona and the Secretary of Agriculture and Yavapai Ranch Limited Partnership.
S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.
S. 178. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.
S. 182. An act to provide for the establishment of the Dinosaur Research and Conservation Center for Dinosaur National Monument in the States of Colorado and Utah, and for other purposes.
S. 190. An act to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.
S. 201. An act to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.
S. 212. An act to amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.
S. 214. An act to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.
S. 225. An act to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.
S. 229. An act to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes.
S. 231. An act to authorize the Bureau of Reclamation to participate in the rehabilitation of the Westland Lake Dam in Oregon, and for other purposes.
S. 232. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes.
S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.
S. 252. An act to authorize the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada.
S. 253. An act 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.
S. 263. An act to provide for the protection of paleontological resources on Federal lands, and for other purposes.
S. 264. An act to amend the Reclamation Wastewater and Grazing Water Study and Facilities Act to authorize certain projects in the State of Hawaii.
S. 272. An act to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.
S. 276. An act to revise the boundary of the Wind Cave National Park in the State of South Dakota.
S. 279. An act to amend the Act of June 17, 1924, to provide for the exercise of criminal jurisdiction.
S. 301. An act to authorize the Secretary of the Interior to provide assistance in implementing cultural preservation and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont.
S. 306. An act to convey all right, title, and interest of the United States in and to the land described in this Act to the Secretary of the Interior for the Prairie Island Indian Community.
S. 1480. An act to establish the treatment of actual rental proceeds from leases of land acquired under an Act providing for loans to Indian tribes or Indian tribal governments.
S. 1481. An act to amend the Indian Land Consolidation Act to provide for probate reform.
S. 1482. An act to amend the Act of August 9, 1955, to provide for binding arbitration for Gila River Indian Community Reservation Contracts.
S. 1483. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to modify the definition of "Indian student count.
S. 1485. An act to amend the Act of August 9, 1955, to extend the authorization of certain leases.

PROVIDING FOR CONSIDERATION OF H.R. 3283, UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 387 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Rs. 387
Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider the bill (H.R. 3283) and the resources to enforce United States trade rights. The bill shall be considered as read. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BONILLA). The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGovern), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. PUTNAM asked and was given permission to revise and extend his remarks.

Mr. PUTNAM. Mr. Speaker, House Resolution 387 is a closed rule that provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill and provides that the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution shall be considered as adopted. H. Res. 387 also provides one motion to recommit.

Mr. Speaker, I rise today in support of this rule and the underlying bill, H.R. 3283, the United States Trade Rights Enforcement Act. The legislation passed the House of Representatives yesterday by a majority vote of 240 to 186, but did not garner the necessary two-thirds vote to pass under suspension of the rules.

Over the past 25 years, U.S.-China trade has risen from $5 billion to $231 billion. China and China are now our third largest trading partner. In 2001, China joined the World Trade Organization by notifying the WTO they had formally ratified the WTO agreements. However, a report released in December of 2004 by the U.S. Trade Representative's office states that while China is hard to comply with its WTO commitments, they have not always been satisfactory.
Major areas of concern identified in the report included intellectual property rights, agricultural services, industrial policies, trade rights and distribution, and transparency of trade laws. This legislation addresses these concerns by creating concrete mechanisms to ensure that China abides by its previous commitments and that we renew our efforts to level the playing field for American manufacturers competing against subsidized Chinese goods.

Specifically, the bill would establish a monitoring system to track China’s compliance with its trade obligations on intellectual property rights, market access for U.S. goods, services, and agriculture, and accounting for Chinese subsidies so that we open it up and have that transparency that has been lacking to date. The system would require that the President issue semiannual reports to Congress on China’s progress in meeting these commitments.

Mr. Speaker, our domestic goods manufacturers are currently at a disadvantage because they are forced to compete with imported goods subsidized by foreign governments or public entities that can be sold at lower prices. H.R. 3283 would apply U.S. countervailing duty law to exports from nonmarket economies, such as China, to give American manufacturers the tools they need here in America to compete with nonmarket economies in those countries.

The bill also tightens the rules on antidumping duties by requiring cash deposits and suspending for 2 years the availability of bonds for new shippers in antidumping cases in order to prevent those shippers from defaulting on their obligations.

H.R. 3283 increases funding for the U.S. Trade Representative to improve the monitoring and enforcement of U.S. trade agreements, something that we hear about an awful lot on this floor, the lack of enforcement of prior trade agreements. This directs the trade representative to make that a priority.

The bill also authorizes funding for the U.S. International Trade Commission and requires the commission to conduct a comprehensive study on the sensitivity of U.S. trade and jobs to current policies.

Mr. Speaker, in today’s global marketplace, it is vital that trade obligations are made to our manufacturers and producers be allowed to fairly compete in our markets here at home and those abroad. I urge my colleagues to support this rule and support the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGovern. Mr. Speaker, I want to thank my friend, the gentleman from Florida (Mr. Putnam), for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, yesterday, the House decided that this time it would not accept the practice of approving bills that materialize out of nowhere. This time, the House decided it wanted a real debate on China’s unfair trade practices and how best to remedy them.

So the House did not approve the two-thirds majority needed for passage under suspension of H.R. 3283, a bill that has never gone before committee, never had a hearing, never had the benefit of expert testimony, never had a markup, and has never been open to amendment. Instead, this House demanded that the bill be taken up under regular procedure. That is why we are here today. But even under regular order, the Republican majority has done all it can to stifle debate.

Last night the Republican majority on the Rules Committee reported out a closed rule for H.R. 3283, a closed rule that only allows for 1 hour of debate and no amendments; well, except for the one amendment offered by the back room author of this bill in the first place, the gentleman from California (Mr. Thomas), the distinguished chairman of the Committee on Ways and Means.

Last night the Committee on Rules heard testimony on three amendments that would seriously address some of the major challenges facing U.S. trade with China and nonmarket economies. First, there was the amendment modeled on the bipartisan bill originally introduced by the gentleman from Ohio (Mr. Ryan), the gentleman from California (Mr. Hunter) and the gentleman from Alabama (Mr. Davis). This amendment might actually provide needed remedies to tackling China’s currency manipulation.

Then there was an amendment offered by the distinguished ranking member of the Committee on Ways and Means, the gentleman from New York (Mr. Rangel), a comprehensive amendment that addresses the real problems facing America in its trade with China, currency manipulation, export surges, barriers to U.S. export of goods and services, and the right of American private sector companies and workers to challenge China’s agricultural and manufacturing subsidies.

Finally, there was an amendment offered by the gentleman from Maryland (Mr. Cogen) and myself, which would have shut down the loopholes in the countervailing duties in the Thomas bill. Each of these concrete proposals presented to the Committee on Rules last night deserve debate, and would significantly enhance the underlying do-nothing legislation. But the Republican leadership shut them out and shut down debate.

Sadly, Mr. Speaker, the Committee on Rules has become a place where democracy comes to die. Heaven forbid that this House might take up amendments to the real issue surrounding China’s unfair trade practices and provide genuine remedies. Heaven forbid that this House might actually have a real debate on these matters, and heaven forbid that the Republican majority might actually allow votes on these serious unfair trade practices.

What is the majority afraid of, a straight up-or-down vote?

Mr. Speaker, I have sat in this Chamber and heard over and over Members on the other side of the aisle give 1-minute speeches demanding that the Senate have up-or-down votes on judicial nominations. If up-or-down votes are good for the Senate, why are they not good for the House of Representatives?

This House has had enough time this week to provide 40 minutes of debate each to the naming of half a dozen post offices, but we do not have enough time or interest to give the Ryan-Hunter-Davis amendment 10 or 15 minutes, or the courtesy to give the ranking member of the Committee on Ways and Means 10 or 15 minutes to offer a substitute amendment.

The Chinese Government must be laughing with glee at the Republican leadership’s blatant abuse of power in their lock-step rejection of democratic debate. Instead, we are forced to settle for the Thomas bill, a bill that fails to offer solutions and fails to take action. Instead, it calls for more reports, more studies and more dialogue. In fact, when the Thomas bill does take action, it actually opens up more loopholes for China to exploit, more ways for China to hide its subsidies, and more opportunities for China to manipulate and falsify its trade and economic data.

Mr. Speaker, standing up for American businesses and workers against America’s unfair trade practices should be one of our top trade priorities.

The growth of China’s economy and its trade with the rest of the world is one of the most significant developments of the 21st century, and the Bush administration and the Republican leadership of this House have no effective policy for dealing with it.

Last year the U.S. trade gap with China was $162 billion. This year it is expected to climb to $225 billion. And China continues to engage in unfair trade practices, with billions lost to Chinese piracy of U.S. intellectual property, Chinese subsidies for its manufacturers, and Chinese currency manipulation harming U.S. exports.

I urge my colleagues to oppose this rule and let this House debate the thoughtful, meaningful amendments that have been offered. That is how democracy is supposed to work.

Mr. Speaker, I reserve the balance of my time.

Mr. Putnam. Mr. Speaker, I yield myself such time as I may consume.

One of the items that the gentleman from Massachusetts (Mr. McGovern) mentioned that I agree wholeheartedly with is the rise of China is one of the most significant developments of the 21st century, and that is why it is so critically important that we make sure that the trade agreements that exist
between our country and theirs are en-forced and are monitored. That is what this bill does.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. Rog-ers), a man from a heavy industry and manufac-turer who understands well the challenges imposed by the lack of enforcement of these agree-ments.

Mr. ROGERS of Michigan. Mr. Speaker, George Washington in his Farewell Address warned of some of the problems that would be created with two strong party systems, and today I see it. It is unfortunate that my col-leagues would spend so much of their time both yesterday and today debat-ing about how they did not have time to debate the issue that is so impor-tant.

This bill for the first time will change trade policy toward somebody like China, who is cheating our econ-omy and stealing our jobs. We have an abil-ity to stand up for every worker in America who gets up, plays by the rules, goes to work and tries to build the best prod-ucts in the world, and they do. Given a level playing field, we will compete with any Nation on the face of the Earth. Our workers are that good. You should have the faith and confidence in them to stand up today and say, we are going to help you by leveling the play-ing field.

Trade is important. It is the engine of prosperity. Commerce is our best dipломat, and today we send that very clear message to places like China that are cheating. It is amazing, and I want to talk just a minute about counterfeit goods, because in this bill for the first time we say you have to have a trade enforce-ment officer who gets up in the morning, and her whole job for the whole day is going to make sure that countries like China are living up to their agreement.

This is the day that we stand up for every worker in America who gets up, plays by the rules, goes to work and tries to build the best products in the world, and they do. Given a level playing field, we will compete with any Nation on the face of the Earth. Our workers are that good. You should have the faith and confidence in them to stand up today and say, we are going to help you by leveling the playing field.

Mr. SPEAKER. Mr. McGOVERN, I yield 3 minutes to the gentleman from Michigan (Mr. ROGERS) by saying we are very con-cerned about the fact that China is cheating and not keeping its word with us. This product steals one job. This bill is largely symbolic. It does not do what we want it to do.

In fact, if press reports are to be be-lieved, this bill is being brought to the floor today as ineffective as it is. It fails to include solutions such as strengthening remedies for American industries that were hurt by China's unfair trade practices. This is a very serious issue that the leadership is trivializing as a protection for a vote for CAFTA. But real Americans are concerned about the ballooning trade deficit with the China and the destruction of U.S. jobs. It fails to include real solutions proposed by Members on both sides of the aisle.

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Brake pads, there was a woman killed in Saudi Arabia because they put formed grass in brake pads and sold them as a counterfeit part; and, unfor-tunately, took her life. This is awfully important stuff.

Mr. Speaker, I urge my colleagues to get over the partisanship and get over the debate about debating, and for the first time send a very clear message that we will stand up for American workers, we will stand behind their pursuit of the future of trade and prosperity, and we will not allow our coun-tries like China to cheat our econ-omy and steal our jobs.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may. Mr. Speaker, let me just respond to the gentleman from Michigan (Mr. ROGERS) by saying we are very con-cerned about the fact that China is cheating and not keeping its word with us. This product steals one job. This bill is largely symbolic. It does not do what we want it to do.

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Fortunately for all Americans, that plot failed, and the measure was defeated on the floor. But to no one's sur-prise, they are back at it again this morning. The leadership once more has shut the door on the delivery of democ-racy by providing just 1 hour of debate on this measure. Impor-tantly, on a party-line vote, the Repub-lians voted to prevent any amendment by any Member of Congress from even being considered on the House floor today which would strengthen this bill.

This bill for the first time will change trade policy toward somebody like China, who is cheating our econ-omy and stealing our jobs. We have an abil-ity to stand up for every worker in America who gets up, plays by the rules, goes to work and tries to build the best products in the world, and they do. Given a level playing field, we will compete with any Nation on the face of the Earth. Our workers are that good. You should have the faith and confidence in them to stand up today and say, we are going to help you by leveling the playing field.

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Mr. Speaker, 750,000 jobs are lost every year to counterfeit products, mainly from China. This product right here, you cannot tell the difference in these two products except what is on the inside. This product steals one job. It steals the opportunity, in a clear attempt to cir-cumvent the membership of the body to have an opportunity to offer your amend-ments, by the way, you cannot have an amend-ment or improvement.

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a letter. We have called, we have written, we have issued press releases, but we cannot get the Bush Commerce Department to lift one finger to save an iconic American industry from annihilation at the hands of Chinese price dumping, which is already illegal.

This is that, much like the Bush administration, this bill will do nothing to help Buffalo Color Company or its employees. As a result, the only remaining producer of the dye for blue jeans, a powerful American icon, will be driven into bankruptcy by illegal price dumping, and more American jobs will be lost. Let me repeat that they have already won their case against China. The Commerce Department simply refuses to allow it to survive.

I hope the sad irony of this is not going to be lost on anybody here today, because Buffalo Color should be able to count on its Federal Government to provide protection from unfair trade practices. With this bill, the Republican leadership is failing to meet that responsibility.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just take one moment to correct something that was said by my friend from Massachusetts about this week being filled with re-naming of post offices. We have managed to find time this week to pass the first comprehensive postal reform in years. There is the strong likelihood of at least a couple of appropriations conference reports; the Central American Free Trade Agreement; a highway conference report; an energy conference report; and a bill to get strict participation going through the Ways and Means Committee.

The gentleman from New York is correct this bill up for a vote yesterday or the suspension calendar. Under House rules it requires a two-thirds vote to be passed. It garnered 240 votes, shy of two-thirds, but a clear majority, with 19 Democrats also believing that it was important to enforce trade agreements with China. It was our mistake, apparently, to believe that it was important to enforce our trade agreements, but just a little tiny trade thing, and China is a huge trade thing, but they will not talk to me or others about China, either party, unless you leverage your vote when it becomes a critical time.

China, as I talked to the DCM a few weeks ago, says, we are not going to re-evaluate. The pressure was so great out of Congress on the markets and manipulation that they made a small concession. They need to make a few more.

The plain truth is that for all my criticism of China, they have been helping to prop up our currency. As Arab countries back out of our currency and move to the euro because of our support for Israel and other elements in the Middle East, China has helped prop it up. If they suddenly float it, it is uncertain what would happen to our economy from interest rates and inflation, but they need to re-evaluate. American industry cannot compete with environmental standards, clean air, clean water, parental leave, the minimum wage, ADA and all this type of stuff, then add to that a currency manipulation of 20 to 80 percent. We cannot compete with a matter of putting tariffs up and us asking for trade advantages. We cannot compete with other people cheat.

Now, we appreciate the Chinese Government moving 2 percent. They need to move faster. This bill gives us a tool.

It was shocking to me last night when this bill went down. It should have been a unanimous vote. Yes, there was not normal participation. Normal participation going through the Ways and Means Committee means it would have been buried so deep, we would not have even seen the letters with the H.R. on it. It would not have ever come out to the House floor. It took leverage to come out. It is not a perfect bill, but we had a bill. Quite frankly, when I first saw that bill go down last night, I thought the China lobby won again, the China lobby on our side that wanted to bury it and the China lobby on the other side that wanted to bury it. I am thankful to everyone that they agreed to come back today with a rule so we could pass it with a clear bipartisan majority. I appreciate them...
moving forth. I believe this incrementally, and that is politics. It is not some dramatic speech. It is not denouncing China. It is actually making incremental policy changes. We just got the double. With this bill and the currency reevaluation, we have made the first steps with China that we have had in years. I think we should be commended, and I think we should try to get a unanimous vote after the politics are done.

Mr. McGovern. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to the gentleman from Indiana that I share his anguish over the process. I share his frustration over the fact that many of us, we want to have more of a policy debate here. I would suggest to the gentleman from Indiana if he really wants a policy debate, that he will join with us on this. I share his frustration myself such time as I may consume.

Mr. Pascrell. Mr. Speaker, I rise to oppose this fig leaf, which is pathetic. The majority is using this fig leaf to cover the growing crisis of our trade relationship with China years after the horse is out of the barn. China is obviously not playing by the rules. You tell me whether they are or they are not. The American people want to know where you stand. They want to know in your district whether you are going to do anything with Democrat and Republican. The resulting imbalance is destroying family wage production jobs here in this United States. This bill does not contain the answers. It should be defeated again. It has not been considered on this floor to buy a few votes is an embarrassment to the House of Representatives.

Let us look at the facts. Let us look at the data. Our trade deficit with China is rapidly growing. It reached $162 billion last year. It was $16 billion in the month of May alone. China is buying huge chunks of our nation’s growing debt. Do you know how much debt China owns of ours? Is that not embarrassing?

Human rights abuses continue to be a problem in China. People from both sides of the aisle have stated on the record what those abuses are. They are not hidden. They are exposed. Yet God knows what do they.

China continues its piracy of U.S. goods and products unabated. Unabated. Many factories in China still utilize child and prison labor. We cannot even get in to see what is going on in those factories.

China has only made a minor change in disconnecting its currency from the dollar. Another fig leaf. It is on the front page of the Financial Times and the Wall Street Journal and the New York Times. Who are those trade people kidding? They are not kidding the American people at all. Our Nation’s manufacturing sector and the manufacturing capability throughout the world is being decimated by China’s use of these practices. This non-regulation, non-market conditions.

This free trade gig is up. It is exposed. Just today, 9:30 this morning, I can report to the Congress of the United States in New Jersey where the U.S. Chamber of Commerce has said, we are going to gain all of these jobs from this trade, we are going to gain all of these jobs from CAPTA. We did a survey of 180 small New Jersey manufacturers. One hundred four small manufacturers, business owners told us they did not think CAPTA would have any impact on their business. One-quarter of the entire sample told us that CAPTA would have a negative impact and lead to job losses, and they were willing to document it. We will bring that up in another debate.

I ask you, taking such minor action today like this bill and the resolution condemning the Unocal bid, ho-ho-ho. And the majority thinks it can show China its concerns about China at this stage? You are not fooling anybody.

This is a fig leaf, Mr. Speaker.

Mr. Putnam. Mr. Speaker, before I respond to the figs and the gigs, may I inquire as to the time remaining?

The Speaker pro tempore (Mr. Bonilla). The gentleman has 15½ minutes remaining.

Mr. Putnam. Mr. Speaker, I yield myself such time as I may consume.

The gentleman on the other side of the aisle, for whom I have a great deal of respect, from New Jersey represents a major industrial State, lots of manufacturers. I would just say that this is clearly a bill that is more than a fig leaf. Application of U.S. countervailing duty law to exports from nonmarket economies is more than an empty gesture: $6 million per year in additional money to USTR beyond the President’s request, up to $45 million and earmarked for the General Counsel, Office of Monitoring and Compliance; the suspension for 3 years of bonding authority; increased teeth, increased enforcement, increased compliance to make the Chinese follow the law and agreements that we have already signed.

Mr. Speaker, I yield 3½ minutes to the gentleman from Pennsylvania (Mr. English), the sponsor of this legislation, and someone who has worked for years very diligently on all the issues relating to China.
And, finally, they voted against requiring the Treasury to clarify its definition of currency manipulation in the context of the very modest change that the Chinese have now put forward.

This is common sense legislation. It was bipartisan legislation, as the gentleman from Florida is well aware, and it certainly did not materialize out of nowhere because all of these components we have been familiar with for years. It is just that the minority in the Committee on Ways and Means never had much interest in issues like CVD.

The rule underlying this debate is consistent with Ways and Means traditions, sought and supported by both parties when they were in the majority. So this is not about stifling debate. This is about moving a bill forward.

Simply by offering silly process arguments like the other side did yesterday is not enough. Offering a fig leaf alternative, a bill dropped in the same day that we announced the consensus we had with us is not enough. The truth was blurted out, may I tell the Members, Mr. Speaker, today in The Hill magazine in which it quoted a spokesman for the Committee on Ways and Means Democrats as saying: The minority has a near unified opposition to the bill stemmed as much from its role in the CAPTA battle as from the strength of its content.

This is all about cynicism. This is all about politics being played by their side of the aisle. They would rather stop a significant first step in dealing with China if it inconveniences their strategy on CAPTA. In other words, they are more worried about dealing with another trade agreement, dealing with five countries whose combined economy is smaller than that of the Czech Republic, than dealing with the real problem and the real threat in Beijing.

This is cynical. This is outrageous. And I urge all of my colleagues, including those intrepid Democrats who supported us on this bill yesterday, to join with us to get it through today; and if they want to vote "no," let them do it. That is democracy, but the voters will hold them accountable.

Mr. McGovern. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Florida just commended the gentleman from Pennsylvania for being the author of the bill. But that is the gentleman from Pennsylvania introduced and then, mysteriously, this is the bill that came out of nowhere out of the Committee on Ways and Means, no hearings, no markup, nothing. So we are talking about two different pieces of legislation. This bill that mysteriously has appeared before us weakens the countervailing duty section. It makes this bill that the gentleman from Pennsylvania introduced originally worse. So that is what we are concerned about here.

Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. Pascrell).
Mr. SHAW. Mr. Speaker, reclaiming my time, I would say to the gentleman that we do not waive any of those rights in the bill that is before the House today.

Mr. MCDONALD. Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN. Mr. Speaker, I just want to clarify the record. The gentleman from Maryland (Mr. MCGOVERN) said, as the gentleman from New Jersey (Mr. PASCARELL) said, and as the gentleman from Massachusetts (Mr. McGovern) said, fails to effectively address remedies for our trade deficit with China; the destruction of U.S. manufacturing jobs, and we know how many jobs we have lost; hundreds and hundreds and hundreds and hundreds of thousands as a result of China's trade policy.

Members of Congress should be troubled that this bill has been introduced only in order to push through another trade priority. We should not have to approve a job-killing trade deal with Central America in order to get the chance to vote on a toothless China bill. I will say that again: We should not have to approve a job-killing trade deal with Central America in order to get the chance to vote on this toothless China bill.

There are no assurances even that the Senate has plans to consider this half measure, and it is surely unlikely to ever become law. Aggressively countering China's unfair trade practices should be a top trade priority. The gentleman from Michigan (Mr. LEVIN) and the gentleman from Maryland (Mr. MCGOVERN), members of the Committee on Ways and Means, they want it to be, but it should have nothing to do with CAFTA.

Unfortunately, for the past 5 years, the administration has done nothing to curb China's illegal trade activities. It is always words over action. In the past 5 years, our government has refused to enforce domestic trade laws with regard to China, failed to take advantage of WTO mechanisms to challenge China's violations of international trade rules, balked at taking any concrete action on China's manipulation of its currency; what I hear from my manufacturers in Akron, in Lorain, and in Elyria almost every weekend.

Our government has proposed eliminating funding for China enforcement activities and our government's proposed congressional efforts to address China's unfair trade practices through legislation. This bill has to resolve these problems. Instead of demanding action, it calls for more reports and more studies to tell us what we already know, that China is simply not playing fair.

A toothless bill on China will not make CAFTA any better.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman from Florida for yielding to me at this time.

I will tell my colleagues, if you want to know about defense or intelligence reorganization, education or medical research, I am your guy to tell you what to do. Trade issues is an interest, but I do not know the ins and outs, but I want to speak as someone who is not on the committee that sees it in a little different way.

Mr. Speaker, the vote that we are voting on today, when we talk about amendments, this is the same exact bill that we voted on yesterday in suspension. So the same bill, not amendments, the same bill as yesterday, and we are bringing it up today, we had 248 votes.

China policy. I understand while many of my colleagues on the other side, and some on our side, have difficulty with China, it is a very difficult relationship, is it a threat or a threat? China is both. They are building Su-30s, a Russian fighter that destroys our best fighters 90 percent of the time,
and the Taiwan problem with the sub­marines and the different trade issues.

But I would tell my colleagues that spoke against, both Republican and Democrat Presidents, seven Presidents supported trade with China. Are there some sub­sectors that are lost? Yes. And that is where the admin­istration and Republicans and Demo­crats need to come together to try and help those sectors that have lost jobs, because in other sectors, jobs have in­creased. Presidents like many Members on the floor, feel that the overall policy is good.

Thirdly, there is no magic bill. If you look at Northern Ireland, you look at the Middle East, look back when Jimmy Carter and President Clinton started peace talks in the Middle East. It takes incrementalism, and it is going to take years of working what other Presidents started to negotiate and to make this sound policy. I do not think it will be totally spe­cific, but this is one step, not a magic bill, to make sure that some of those trade agree­ments are enforced.

That is a good thing, and that is why we need to vote today on the same bill that we voted on yesterday. I know my colleagues want amendments, but this is the same bill that 240 people voted for hours ago.

I would remind people that I went to Hanoi, and Pete Peterson, who is a Democrat. He invited us to go to Vien­nams, when I was in Hanoi, to the Min­ister I said, why will you not get in­volved with President Clinton and trade in Vietnam, and he pointed at thousands of bicycles outside his win­dow and he said, Congressman, I am a Communist. He said, if those people have things, I will be out of office. So maybe trade is good as a fight against communism, as one small increment.

That small bill that we go forward are impotent. My colleagues who have legitimate concerns, es­pecially in their own districts, and we need to work those things out, but this is an important bill, and I ask my col­leagues in the rule and the rule and the Mr. PUTNAM. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, at this time I yield 3½ minutes to the gentle­man from Michigan (Mr. LEVIN).

(Mr. LEVIN asked and was given per­mission to revise and extend his re­marks.)

Mr. LEVIN. Mr. Speaker, quickly on process, we are not asking for an open rule; we are asking for the ability to bring up a substitute and three specific amendments, number one.

Number two, as to the connection with CAFTA, the gentleman from Penn­sylvania (Mr. ENGLISH) was not in favor of CAFTA until there was an agreement to bring up his bill, and then he said he was for CAFTA.

Number three, what you are doing is limiting debate on this and also on CAFTA. We have major trade issues, and you do not want to discuss them.

Here is a reason why we need to have long debate on this issue and on CAPTA. We have been limited to 2 hours on CAFTA. Will all the facts get out? I am afraid not.

For example, there was discussion in the media about commitments that were made by this administration re­garding pocketings and linings, and that there was agreement reached with the CAFTA countries. We need a long time to debate so we can show that things are not true some­times that are said to be true.

I just spoke to La Nación in Costa Rica about this alleged agree­ment on textiles, and here is a quote from the Minister, the Trade Minister of Costa Rica. I am quoting: “It is not true that those consultations, that ne­gotiation, has occurred, and it is not at all true that we in Costa Rica and the rest of Central America have sat down yet for that process of consultations.”

So we need a full airing of CAFTA and of the China bill.

Quickly, on the China bill, the gent­leman from Florida (Mr. STAY) said that the Rangel substitute calls for unilateral sanctions. That is not true. That is simply not true. There is a pro­vision relating to currency allowing an action under 301. If that action is taken, we go to the WTO. So you get up here and say things that are just not correct. That is why we need more time.

The currency thing, I heard another colleague on the Republican side say that the need for the semiannual Trea­sury report comes out every 6 months. It is loaded with information, data just coming out of the ears of the Treasury Department. The trouble is, there is never any action. We have in our sub­stitu­tions provisions that say, let us have an avenue for action rather than sim­ply more talk. So we should turn down this rule and, really, this bill.

The gentleman from Pennsylvania (Mr. ENGLISH) does not like the word “fig leaf.” It is a smoke screen; maybe “fig leaf.”

The SPEAKER pro tempore (Mr. BONILLA). Is there objection to the re­quest of the gentleman from Massachu­setts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, what­ever Mr. MCGOVERN. Mr. Speaker, at this time I yield 3½ minutes to the gentle­man from Pennsylvania (Mr. ENGLISH). Mr. ENGLISH does not like the word “fig leaf.”

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The SPEAKER pro tempore (Mr. BONILLA). Is there objection to the re­quest of the gentleman from Massachu­setts?

There was no objection.
in years, a highway bill that has been in the making for over 2 Congresses now, an energy conference report that has also been in the making for over 2 Congresses now; the opportunity to have at least one and perhaps as many as three appropriations conference reports before us before entering the district work period; and a Central American Free Trade Agreement, as well as a bill that gets tough with China, that finally holds our administration’s feet and the feet of, either party’s feet to the fire, and requires that they monitor and enforce the existing trade agreements that have been enacted by this Congress.

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This bill has been called a smoke screen, it has been called a fig leaf, it has been called a number of demeaning terms. But guess what this is a real, worthwhile enforcement tool that gives Members the opportunity to show the folks back home where they are on fair level trade with China.

The application of U.S. countervailing duty law on nonmarket economies is not an empty gesture. A system of comprehensive monitoring of Chinese compliance with their trade obligations on intellectual property rights; market access for our American goods, services, and agriculture; an accounting of the Chinese subsidies; increased transparency so that we know what the government ownership is, we know what they are subsidizing, we know how much. Those are more than fig leaves, Mr. Speaker.

It requires reporting by Treasury to define the currency manipulation and to analyze the effect of what the Chinese did with their new exchange rate mechanism at the end of the day. That is not a smoke screen.

A $6 million a year increase above the President’s request, up to almost $45 million a year for the general counsel of monitoring and compliance. That is not an empty promise. That is a real meaningful resource to improve our ability to track the Chinese subsidy and the potential manipulation of the global marketplace that is out of compliance with our trade agreements.

The suspension for 3 years of the establishment or protection of intellectual property rights; market access for our American goods, services, and agriculture; an accounting of the Chinese subsidies; increased transparency so that we know what the government ownership is, we know what they are subsidizing, we know how much. Those are more than fig leaves, Mr. Speaker.

The material previously referred to by Mr. McGovern is as follows:

PREVIOUS QUESTION FOR H. RES. 367 H.R. 3283—UNITED STATES TRADE ENFORCEMENT ACT. In the resolution strike “(and 2)” and insert the following:

“(2) the amendment in the nature of a substitute printed in Section 2 of this resolution if offered by Representative Rangel of New York, and which shall be in order without any intervening of any point of order or demand for division of the question, that the members be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and” (3)

At the end of the resolution add the following new section:

“SEC. 2. The amendment by Representative Rangel referred to in Section 1 is as follows: AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3283

OFFERED BY MR. RANGEL OF NEW YORK

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE. This Act may be cited as the “Fair Trade with China Act of 2005.”

SEC. 2. FINDINGS. The Congress finds as follows:

(1) The growth of the economy of the People’s Republic of China is one of the most important developments of the 21st century.

(2) The bilateral trade relationship between the United States and China is heavily imbalanced and is undermining the long-term economic health of the United States.

(3) The United States trade deficit with China has doubled since 2000, reaching $192.7 billion in 2004, the largest bilateral trade deficit in the world.

(4) As a consequence of the trade deficit, the United States has had to borrow massive amounts of money from foreign governments.

(5) The United States has accumulated more debt to foreign countries since 2000 than in the first 220 years of the country’s history.

(6) China has become a major purchaser of United States Treasury bonds, and United States payments adjustment or gains an unfair competitive advantage over the United States.

(7) The large amounts of United States dollars accumulated by the Government of China contribute to China’s acquisitions of United States companies, such as the proposed acquisition of Unocal Corporation by the China National Offshore Oil Corporation.

(8) China continues to violate many of the commitments it made when it joined the World Trade Organization.

(9) China’s inadequate enforcement of intellectual property rights is resulting in infringement levels of 90 percent or more for many forms of intellectual property, and cost American companies more than $2,500,000,000 in lost sales in 2004.

(10) China’s industrial policies discriminate against foreign firms and products.

(11) The Government of China continues to heavily subsidize its manufacturing sector through tax incentives, preferential access to credit and capital, subsidized utilities, and other measures.

(12) Since 1994, China has kept its currency pegged at approximately 8.3 renminbi to the United States dollar, which has caused the renminbi to become undervalued against the dollar by as much as 40 percent, harming exports of United States goods and services to China and providing an unfair advantage to Chinese exports to the United States.

(13) Current policies of the United States have failed to advance and protect the interests of American workers, businesses in the United States-China trade relationship, failed to address effectively China’s unfair trade practices and market access barriers to goods and services and poor record at protecting intellectual property rights, and failed to stem or reverse the unsustainable United States trade deficit with China.

(14) It is critical that the United States develop and implement a comprehensive and coherent set of policies to address China’s unfair trade practices and abide by its commitments as a member of the World Trade Organization.

SEC. 3. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES. (a) IN GENERAL.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting “including a nonmarket economy country” after “country” each place it appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 4. TREATMENT OF CURRENCY MANIPULATION. (a) DEFINITION OF UNJUSTIFIABLE ACTS, POLICIES, AND PRACTICES.—Section 301(d)(4)(B) of the Tariff Act of 1974 (19 U.S.C. 2411(d)(4)(B)) is amended to read as follows:

“(i) In this subparagraph, the term ‘currency manipulation’ means the protracted large-scale intervention by an authority to undervalue its currency in the exchange market that prevents or is accompanied by payments adjustment or gains an unfair competitive advantage over the United States.”
(1) INVESTIGATION, DETERMINATIONS, ACTIONS.—The United States Trade Representative shall—
   (a) conduct an investigation under sections 332 of the Trade Act of 1974, of the currency practices of the People’s Republic of China;
   (b) make the applicable determinations under section 301 of that Act pursuant to that investigation; and
   (c) implement any action, under section 305 of that Act, in accordance with such determinations.

(2) INITIATION OF INVESTIGATION.—The United States Trade Representative shall initiate the investigation required by paragraph (1) not later than 90 days after the date of the enactment of this Act.

SEC. 5. CLARIFICATION OF STANDARD FOR PRESIDENTIAL ACTION ON ITC FINDING OF MARKET DISRUPTION.

(a) AMENDMENTS TO STANDARD FOR TRADE REPRESENTATIVE’S RECOMMENDATION TO THE PRESIDENT.—Section 421(b)(2) of the Trade Act of 1974 (19 U.S.C. 2461(b)(2)) is amended—
   (1) by striking “(2) Within” and inserting “(2)(A) Within”;
   (2) by adding at the end the following:
   "(B) The recommendation to the President under subparagraph (A), the Trade Representative shall consider the facts found, or conclusions drawn, by the Commission and any report to the Trade Representative, and the Trade Representative may not conduct an additional review or reconsideration of the facts found or conclusions reached by the Commission.
   "(C) If the Commission in its report makes an affirmative finding of market disruption, the Trade Representative shall apply a presumption in favor of relief to prevent or remedy the market disruption.
   "(D) The following factors may not be used as the basis of a recommendation by the Trade Representative to recommend denying relief under this section: (i) The presence or absence (whether actual or potential) of third-country imports of the product under investigation; (ii) Any results of the econometric model known as the Commercial Policy Analysis System (COMPAS) or equivalent model.

(b) STANDARD FOR PRESIDENTIAL ACTION.—Section 421(k) of the Trade Act of 1974 (19 U.S.C. 2461(k)) is amended by adding at the end the following:
   "(3) The President’s determination shall be based on the facts found, or conclusions drawn, by the Commission as they are reported to the Trade Representative under subsection (a).
   "(4) If the Commission in its report makes an affirmative finding of market disruption, the President shall apply a presumption in favor of relief to prevent or remedy the market disruption.
   "(5) Any determination by the President under paragraph (1) that providing report relief is not in the national economic interest of the United States may not be based on the following factors: (A) The presence or absence (whether actual or potential) of third-country imports of the product under investigation.

   "(B) Any results of the econometric model known as the Commercial Policy Analysis System (COMPAS) or equivalent model.".

SEC. 6. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

(a) IDENTIFICATION OF TRADE EXPANSION PRIORITIES.—Section 310 of the Trade Act of 1974 is amended to read as follows:

"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.
   (a) IDENTIFICATION.—
   (1) IDENTIFICATION AND REPORT.—Within 30 days after the submission in each calendar year of the report required by section 131(b), the Trade Representative shall—
   "(A) review United States trade expansion priorities;
   "(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through elimination of a beneficial precedent; and
   "(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices so identified.
   "(2) FACTORS.—In identifying priority foreign country practices under paragraph (1), the Trade Representative shall take into account all relevant considerations—
   "(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 131(b);
   "(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;
   "(C) the medium- and long-term implications of foreign government procurement plans; and
   "(D) the international competitive position and export potential of United States products and services.
   "(3) CONTENTS OF REPORT.—The Trade Representative may include in the report, if appropriate—
   "(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and
   "(B) a statement about other foreign country practices that were not identified because they were already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries, and because progress is being made toward the elimination of such practices.
   "(4) INITIATION OF CONSULTATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall seek consultations with each foreign country identified as a priority country in the report to address foreign country practices for the purpose of reaching a satisfactory resolution of such priority country practices.
   "(5) INITIATION OF INVESTIGATION.—If a satisfactory resolution of priority foreign country practices has not been reached under subsection (4), the President may initiate an investigation under this chapter with respect to such priority foreign country practices.
   "(6) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a), with respect to an investigation initiated by reason of subsection (c), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.
   "(7) REPORTS.—The Trade Representative shall include in the annual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (c) and, where appropriate, the extent to which the practices treated have led to increased opportunities for the export of products and services of the United States.”.

(b) INITIAL REPORT ON CHINESE PRACTICES.—Not later than 90 days after the date of the enactment of this Act, the United States Trade Representative shall identify, for submission to the Congress, priority foreign trade practices of the People’s Republic of China, in accordance with section 310 of the Trade Act of 1974, as amended by subsection (c) of this section.

(c) CONFORMING AMENDMENT.—The item relating to section 310 in the table of contents of the Trade Act of 1974 is amended to read as follows:

"Sec. 310. Identification of trade expansion priorities.”.

SEC. 7. REQUIREMENT OF CASH DEPOSITS.

   (1) by striking clause (iii); and
   (2) by redesigning clause (iv) as clause (iii).

SEC. 8. ITC INVESTIGATION.

(a) INVESTIGATION.—The United States International Trade Commission shall conduct a study, under section 321 of the Tariff Act of 1930 (19 U.S.C. 1332), on how the People’s Republic of China uses government intervention to promote investment, employment, and exports of domestic companies comprehensively catalog, and when possible quantify, the practices and policies that central, provincial, and local government bodies in the People’s Republic of China use to support attempts by foreign companies to influence decision-making in China’s manufacturing enterprises and industries. Chapters of this study shall include, but not be limited to, the following:

   (1) Privatization and private ownership.
   (2) Price coordination.
   (3) Protection of domestic industries.
   (4) Banking and finance.
   (5) Utility rates.
   (6) Infrastructure development.
   (7) Taxation.
   (8) Restraints on imports and exports.
   (9) Research and development.
   (10) Worker training and retraining.
   (11) Rationalization and closure of uneconomic enterprises.

(b) TIMING OF REPORTS ON INVESTIGATION.—The Congress requests that—
   (1) not later than 9 months after the date of the enactment of this Act, the International Trade Commission complete its investigation under subsection (a) and submit a report on the investigation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and
   (2) not later than 1 year after the report under paragraph (1) is submitted, and annually thereafter through 2016, the International Trade Commission prepare and submit to the committees referred to in paragraph (1) an update of the report.

SEC. 9. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.

(a) BILATERAL NEGOTIATIONS.—Section 304(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended in the second sentence by striking “(1) have material global account surpluses; and (2)”.

(b) DESTRUCTION OF MULTIPLE EXCHANGE RATES.—Section 306 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) MANIPULATION OF RATE OF EXCHANGE.—A country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a protracted large-scale intervention by an authority to undervalue its currency in the..."
SEC. 2. EXTENSION OF FUNDING FOR ESTABLISHMENT AND OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

Subsection (c) of section 2745 of the Public Health Service Act (42 U.S.C. 306g-45) is amended to read as follows—

"(A) ANNUAL AMOUNT.—The amount appropriated under this subsection—

(1) in paragraph (1)(A), by adding at the end the following: ''(or 200 percent in the case of a State that meets the requirements of paragraph (3)) after ''150 percent'';

(B) in paragraph (1)(C), by striking ''after the end of fiscal year 2004'' and inserting ''after the end of the last fiscal year in which a grant is provided under this paragraph''; and

(C) by adding at the end the following new subsection:

"(1) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risk in the pool by considering the premium rates charged to a group of insured individuals in the State bears to the total number of insured individuals in such State, the grant provided under this subsection to such State (as determined by the Secretary)."

(2) CHANGE IN DEFINITION OF QUALIFIED HIGH RISK POOL.—Subsection (d) of such section is amended to read as follows:

"(1) DEFINITIONS.—In this section:

"(A) Eligible high risk pool.''

(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate that—

"(A) is determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market.''

(3) ADMINISTRATIVE PROVISIONS; ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of grants among the States and the use of grant funds by States.''

(b) ENSURE BENEFITS.—Such section is further amended—

(1) in subsection (c)(2), as added by subsection (a), by adding at the end the following: ''Of the amount appropriated under the preceding sentence for fiscal year 2005, up to 50 percent shall be available for the purpose of carrying out subsection (f);'' and

(2) by adding at the end the following new subsection:

"(2) CHANGES IN REQUIREMENTS FOR QUALIFIED HIGH RISK POOLS.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by adding at the end the following: ''(or 200 percent in the case of a State that meets the requirements of paragraph (3)) after ''150 percent'';

(2) by adding at the end the following new paragraph:

"(C) reflects anticipated claims experience and expenses for the coverage involved.''

(3) STATE.—The term 'State' means any of the 50 States, the District of Columbia.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to grants for fiscal years beginning with fiscal year 2005.

(4) CLARIFICATION IN FORMULA FOR OPERATIONAL GRANTS.—Subsection (b)(2) of such section is amended—

(1) by inserting ''(before fiscal year 2005)'' after ''for a fiscal year beginning with fiscal year''

(2) by adding at the end the following: ''The amount appropriated under subsection (c)(2) for a fiscal year beginning with fiscal year 2005 (as increased by the amount made available under subsection (f)) shall be made available to the States (including entities that operate the high risk pool under applicable State law in a State) that qualify for a grant under subsection (b) as follows—

(A) An amount equal to 5/10 of such amount shall be allocated in equal amounts among such qualifying States.

(B) An amount equal to 5/10 of such amount shall be allocated among such States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals in all such States (as determined by the Secretary).

(C) An amount equal to 5/10 of such amount shall be allocated among such States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all such States (as determined by the Secretary).

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of enactment of this subsection, is in the process of implementing programs to provide benefits of the type described in the preceding sentence from being eligible for a grant under this subsection.

(5) FUNDING.—
help more people get health insurance. People with preexisting conditions or high health care expenses face major difficulties when they seek to purchase health insurance.

This is especially true for workers in small businesses and self-employed. So they often go without health insurance and turn to government programs like Medicaid when they become sick or disabled.

This bill authorizes Federal grant money to help fund the initial start-up and operation of State high-risk pools. Risk pools allow eligible individuals to purchase health insurance, pay premiums, and receive health coverage through private insurers. This grant money will allow States with those pools to cover more individuals and reduce the premiums they must pay.

It will also allow States like my home State of Georgia that do not have a qualified high-risk pool to simply start one. This bill will help to reduce the latter’s price and provide affordable health insurance for more Americans.

Mr. Speaker, I want to thank the bill’s sponsors, the gentleman from Arizona (Mr. Shadegg), who I will recognize in a moment as my Democratic counterpart, the gentleman from New York (Mr. Towns), and their staffs for their hard work on this bill.

I would also like to thank the staff of the Energy and Commerce Committee, including the majority staff, and Amy Hall on the ranking member, the gentleman from Michigan’s (Mr. Dingell), staff for their efforts to come up with a bipartisan proposal that will help States to ensure that individuals who do not otherwise have health insurance are able to purchase it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 4 minutes.

I am pleased to join the gentleman from Georgia (Mr. Deal) in supporting H.R. 3204, which reauthorizes funding for State high-risk insurance pools. I commend my colleagues, the gentleman from Arizona (Mr. Shadegg) and the gentleman from New York (Mr. Towns), for their work on this legislation.

In many States, high-risk insurance pools are the only option for individuals who need access to coverage in the commercial insurance system. The legislation before us is intended not only to strengthen existing high-risk pools, but to help States without such pools, my home State of Ohio is one of them, to help States without such pools to establish them.

But as we reauthorize this legislation, it is important to place high-risk insurance pools in context. These pools are a symptom of a troubled insurance market. Private health insurance used to be a community; now it is almost a country club. So we are left with stop-gap mechanisms like high-risk insurance pools.

They are far from ideal, but our most vulnerable citizens certainly would be worse off without them. We should make sure high-risk insurance pools are available. We should also keep working until we render them unnecessary.

I appreciate the author’s willingness, the gentleman from Arizona (Mr. Shadegg), and the gentleman from Texas (Mr. Barton) to work with us to accept an amendment I offered during committee consideration to ensure that States use at least 50 percent of the bill’s funding to expand access to the pool or to improve the high-risk coverage.

As it stands, States can and have used Federal risk-pool funding to replace dollars collected from the pool from private insurers, leaving the risk pools themselves no better off. That is a misappropriation of the pool’s purpose and a questionable use of Federal funding. My amendment that the committee accepted reminds the States that Federal high-risk pool funding is intended to expand the quality and reach of high-risk pools, not to let commercial insurers off the hook for making those pools unnecessary.

Mr. Speaker, I urge my colleagues to support this legislation on behalf of individuals disenfranchised from private health insurance because they are not in perfect health. That hardly makes sense.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my counterpart as the ranking member of the health subcommittee for what I perceive to be his unqualified endorsement of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. Shadegg), the author of the legislation.
Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this piece of legislation addresses a concern which touches literally every single American life. A number of years ago, in 2002, this Congress looked at the issue of health care in America and recognized that, sadly, there are those in this country who as a result of some form of health condition cannot acquire affordable health insurance.

We have decided as a Nation that no one in this country should go without a basic level of health care; and recognizing these high-risk individuals, the Congress in 2002 passed legislation to encourage each of States across the country to establish a high-risk pool; that is, to create a pool of money sponsored by the State where individuals with serious illnesses, individuals in this high-risk category, could go and could acquire insurance at a more affordable rate, indeed, at a rate they could afford as opposed to going uninsured. I think this is a charitable thing to do, I think it is a compassionate thing to do, and I think it is important.

This legislation today extends that principle. I am extremely encouraged that 33 States across this country have taken advantage of the prior legislation enacted in 2002 and have established these high-risk pools to help individuals in their State who are in the high-risk category and cannot find affordable insurance at an affordable rate.

In carrying those principles forward, this legislation first and foremost encourages additional States to create high-risk pools. To accomplish that goal it provides $15 million in seed grants available to any State which does not currently have a high-risk pool. Each State is eligible for up to $1 million to found and begin its high-risk pool. So I hope that that money is taken advantage of by as many States as possible that do not currently have high-risk pools so that they can create a high-risk pool so those in our society who have the kinds of illnesses that make it impossible for them to acquire affordable health insurance will have that opportunity available to them in their State.

The legislation also assists those States who have already established high-risk pools. It provides $50 million a year each year from fiscal year 2005 through fiscal year 2009 to offset operational losses for high-risk pools. These high-risk pools are funded by everyone that has health insurance. That is, a tax is levied on every single person that has insurance, and that tax is contributed to the high-risk pool. By having additional money from the Federal Government to help offset operational losses, we are lowering the cost of health insurance for every single insured American.

This is vitally important legislation. I want to thank the chairman of the subcommittee, the ranking chairman of the full committee and the ranking member of the full committee for their assistance in bringing this important legislation to the floor.

Mr. BROWN of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank my friend from Georgia (Mr. DEAL), my chairman, for yielding me time.

Mr. Speaker, I rise in strong support of H.R. 3204, which would extend seed grant money as well as provide $50 million for the next 4 years for the creation and operation of high-risk pools. Mr. Speaker, this is a nonpartisan issue. As we all well know, the increasing cost of health care has affected millions of Americans. The number of uninsured Americans is obviously too high, and it underscores the needs for a change in the way we think about delivering health insurance. Congress must act in a way that will increase the affordability and the accessibility of health care for our citizens. We must also be mindful of those who are hard to insure or are simply uninsured due to their preexisting conditions or chronic illness.

In that light, high-risk pools have quietly become an important part of our Nation’s public/private patchwork of health care coverage for individuals with costly health conditions. These folks are oftentimes employed and paying their taxes, but cannot get coverage under a normal insurance plan in the individual market. Pools are already covering thousands of people who through no fault of their own do not have access to group health insurance and simply cannot afford coverage in the individual market.

Thirty-one States thankfully are already operating high-risk pools. The coverage they offer is good coverage. Oftentimes it is as good as what is offered in the private insurance market in that State. However, enrollees are sometimes required to pay additional premiums. This makes sense because pool members are by definition those who are considered to be uninsurable. However, we limit how much can be charged, generally between 125 and 150 percent of the base individual market rate.

One of the important provisions of H.R. 3204 is that it requires States that charge premiums that exceed 150 percent to use at least 250 percent of their Federal grant to reduce their premiums.

Mr. Speaker, this legislation takes us a step closer to making sure that everyone can purchase the health insurance protection they need. I understand the worries associated with serious health conditions, and my constituents know the danger that catastrophic health care costs can pose to working families, especially in rural families and the self-employed.

High-risk pools reduce the burden on the government in the long term by providing those with serious conditions a private safety net of coverage. I hope that all States, and that includes my home State of Georgia, will soon have high-risk pools. I urge everyone to support this legislation.

Mr. DEAL of Georgia. Mr. Speaker, I want to thank my colleague from Georgia (Mr. NORWOOD) for taking time out on his birthday to be with us, and I congratulate him on his birthday.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for the purposes of engaging in a colloquy.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Georgia (Mr. DEAL) for yielding me time and for entering into a colloquy.

Mr. Speaker, residents of the U.S. territories face many obstacles to obtaining affordable health care insurance. The cost of providing care in the territories is relatively high, and corresponding insurance rates are high due to a number of factors, including the high level of chronic disease in small populations over which to spread risk.

The State’s high-risk pool model is an innovative manner of addressing the need for health insurance for high-risk populations. H.R. 3204 authorizes Federal seed funding and additional grants in the 50 States and the District of Columbia for the purpose of initiating and operating high-risk pools, but unfortunately fails to include the U.S. territories.

H.R. 3204 is a good approach to decreasing the number of uninsured. In fact, it makes coverage accessible to people who, often through no fault of their own, suffer from these chronic diseases. It can be very helpful to my constituents and the constituents of my fellow delegates, especially given the limitations the cap on Medicaid imposes on health care delivery in the territories.

I am sure that the exclusion of the territories was an oversight, and I respectfully request your assistance and the assistance from the gentleman from Ohio (Mr. BROWN) in working to add the territories as eligible recipients of this funding as this bill moves through the rest of the legislative process and in any conference with the Senate on this reauthorization.

Mr. DEAL of Georgia. Mr. Speaker, will the gentlewoman yield?

Mrs. CHRISTENSEN. I yield to the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentlewoman. I want to assure her that we will work with her and the other Representatives from the territories in conference to try to make...
The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REEXPORTATION OF CONTROLLED SUBSTANCES

(a) SHORT TITLE—This Act may be cited as the “Controlled Substances Export Reform Act of 2005.

(b) IN GENERAL.—Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end the following:

“(1) Notwithstanding subsections (a)(4) and (c)(3), the Attorney General may authorize any controlled substance that is in schedule I or II, or is a narcotic drug in schedule III or IV, to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the ‘first country’) and the country to which the controlled substance is exported from the first country (referred to in this subsection as the ‘second country’) are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

(2) The first country and the second country have each maintained, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that:

(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

(5) The controlled substance will not be exported from the second country.

(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred.

(7) A permit to export the controlled substance from the United States has been issued by the Attorney General.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1395. The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. S. 1395, the Controlled Substances Export Reform Act of 2005, is simply about allowing companies to better compete in the global marketplace.

Under the Controlled Substances Import and Export Act, a company is not allowed to export controlled substances to one country and then send it to a third country. Companies that export controlled substances must make a large number of long-distance, small shipments to individual countries, incurring large shipping costs. Due to this restriction, American manufacturers are less competitive than their foreign competitors, which results in high-paying U.S. jobs being sent overseas.

S. 1395 will enable U.S. companies to export products more efficiently by allowing them to send a large shipment to one nation overseas and from there to distribute smaller shipments to other countries. All subsequent transfers of controlled substances would still be subject to strict oversight by the DEA and will require a permit from the Attorney General to prevent any potential abuse.

Both the Committee on Energy and Commerce and the Committee on the Judiciary have reported the House companion legislation to this bill earlier this year. I would like to thank the gentleman from Pennsylvania (Mr. PITTS), a member of the Committee on Energy and Commerce, for his work on this issue.

I urge my colleagues to support this needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding to my friend from Guam, I would like to make a couple of opening comments. The Controlled Substances Import and Export Reform Act is common-sense legislation that would lift unnecessary barriers to the export of controlled substances.

I was pleased to join my colleagues on the Committee on Energy and Commerce, the gentleman from Pennsylvania (Mr. PITTS), as a sponsor of this legislation.

Our bill expands the U.S. role in an important export while maintaining safeguards to prevent illegal diversion of controlled substances. The key provisions of this bill create a regulatory mechanism by which U.S. exporters can ship controlled substances efficiently from one country to another.
enabling those companies to compete on a global scale.

The Drug Enforcement Administration worked with us on this legislation to ensure sufficient protections for consumers and safeguards against illegal activity, I thank the gentleman from Ohio (Mr. Brown), Mr. Speaker, unfortunately, it fails to include the U.S. territories. I want to thank my colleague, the gentlewoman from the Virgin Islands (Mrs. Christensen), who was here speaking on my behalf earlier. I also thank the gentleman from Georgia (Mr. Deal) and the gentlewoman from Guam (Ms. Bordallo). Mr. Speaker, I wish to speak very briefly on H.R. 3204.

The cost of providing health care in the territories is relatively high, and corresponding insurance rates are high due to the number of factors, including high levels of chronic disease in small populations over which to spread risk. H.R. 3204 authorizes Federal seed funding and additional grants to the 50 States and the District of Columbia for the purposes of initiating and operating high-risk pools, but, Mr. Speaker, unfortunately, it fails to include the U.S. territories. I want to thank my colleague, the gentlewoman from the Virgin Islands (Mrs. Christensen), who was here speaking on my behalf earlier. I also thank the gentleman from Georgia (Mr. Deal) and the gentleman from Ohio (Mr. Brown).

I respectfully request the gentleman’s assistance and the attention of our colleague, the gentleman from Ohio (Mr. Brown) in working to add the territories as eligible recipients of this funding as this bill moves through the rest of the legislative process and in any conference with the Senate on this reauthorization.

Mr. Brown of Ohio. Mr. Speaker, I thank the gentlewoman from Guam, and I will work with the gentleman from Georgia (Mr. Deal) and the gentlewoman from Ohio (Ms. Bordallo) and the congressional Representatives from other U.S. territories to secure the inclusion of U.S. territories in the conference report on the prior legislation reauthorizing the State high-risk pool grant funding; and I thank the gentlewoman from Guam and also the gentlewoman from the Virgin Islands (Mrs. Christensen) in joining us on the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. Deal of Georgia. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania (Mr. Pitts), the author of the House companion bill to the legislation that we are considering now.

Mr. Pitts. Mr. Speaker, as a sponsor of this legislation in the House, I rise in strong support of S. 1395, the Controlled Substances Export Reform Act of 2005. This bipartisan legislation would reform laws that govern the export of American-made pharmaceutical products.

This is a jobs bill that will benefit small businesses, particularly small pharmaceutical companies employing between 100 and 250 highly paid workers. Current law puts U.S. companies, particularly these small manufacturers, at a significant disadvantage with their foreign competitors. Larger manufacturers, with an established foreign presence, may choose to manufacture offshore. Foreign firms do not have to worry about it. They readily export approved medical products between international drug control treaty countries without limit or restriction.

To compete, smaller U.S. companies, or those requiring specialized manufacturing plants for niche pharmaceuticals, are forced to choose between spending millions of dollars on export costs or spending millions of dollars in establishing overseas manufacturing facilities. This cost hurts smaller companies like Cephalon, back home in Pennsylvania.

The bottom line is our law ties the hands of American companies, forces them to do business elsewhere or not to do business at all. This legislation would authorize the Attorney General to permit carefully regulated pharmaceutical exports to international drug control treaty countries. The DEA would retain full authority over all shipments of controlled substances, and the bill establishes strict procedures to ensure these products are used solely for legitimate medical purposes.

Mr. Speaker, this legislation keeps jobs right here at home, and removes one of the barriers to prevent the success of these small companies. I urge support of the bill; and I thank my colleague, the gentleman from Ohio (Mr. Brown), for the bipartisan effort, and I thank Chairman Deal for his leadership on the issue.

Mr. Speaker, as the sponsor of this legislation in the House I rise in strong support of S. 1395, the Controlled Substances Export Reform Act of 2005. This bipartisan legislation would reform laws that govern the export of American-made pharmaceutical products.

This is a jobs bill that will benefit small businesses, particularly small pharmaceutical companies employing between 100 and 250 highly paid workers.

Current law allows U.S. companies to export most controlled substances only to the immediate country where the products will be consumed. Shipment to central sites for further distribution across national boundaries is currently prohibited.

Current law puts U.S. companies, particularly small manufacturers, at a significant disadvantage with their foreign competitors.

Larger manufacturers with an established foreign presence may choose to manufacture offshore using existing facilities. Foreign firms don’t have to worry about it.

They readily export approved medical products between international drug control treaty countries without limit or restriction.

To compete, smaller U.S. companies and those requiring specialized manufacturing plants for niche pharmaceuticals are forced to choose between spending millions, of dollars on export costs or spending millions of dollars in establishing overseas manufacturing facilities. This cost harms smaller companies, like Cephalon, back home in Pennsylvania.

The bottom line: Our law ties the hands of American companies and forces them to do business elsewhere—or to not do business at all.

This legislation authorizes the Attorney General to permit carefully regulated pharmaceutical exports to international drug control treaty countries. The Drug Enforcement Administration (DEA) would retain its full authority over all shipments of controlled substances.

It establishes strict procedures to ensure these products are used solely for legitimate medical purposes.

Once enacted it would save small companies nearly 75 percent on export costs.

It would enable them to compete in the long-term in the global market. And it would help them keep jobs and capital right here at home.

An informal review of impacted U.S. exporters indicates that current law, with the cost of compliance, jeopardizes between 100–250 new U.S. jobs each time a covered product is introduced in foreign markets.

Small businesses create new jobs; they strengthen communities and drive innovation.

The law should help them thrive, not put them at a disadvantage with foreign competitors or large corporations.

We need to make sure that we treat them fairly and give them every opportunity to succeed.

This bill removes just one of the barriers that prevent their success. I urge support for this bill.

And continued support for our Nation’s small businesses.

Mr. Brown of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. Deal of Georgia. Mr. Speaker, I yield such time as she may consume to the gentleman from Georgia (Mr. Norwood), for closing.

Mr. Norwood. Mr. Speaker, I thank the gentleman for yielding me this time, and I think it is pretty obvious that all is said that needs to be said, so I will be very, very brief.

I just simply want to rise in support of the Controlled Substances Export Reform Act of 2005. This is very commonsense legislation; and I thank my good friend, the gentleman from Pennsylvania (Mr. Pitts), for spearheading this in the House and would hope that all Members would vote for it.

Mr. Cannon. Mr. Speaker, as America strives to adapt to a world of rapidly changing international trade, preserving and expanding U.S. manufacturing and production capabilities becomes ever more important. This is particularly true in Utah where current restrictions on exports of the medicines we produce have discouraged industry growth and threatened workers’ jobs.

The Controlled Substances Export Reform Act currently allows U.S. pharmaceutical companies to export most controlled substances only to the United States where their product will be used. Shipment of U.S. medicines to central sites for further cross-border distribution, even when conducted under the watchful
eyes of the U.S. Drug Enforcement Administration and Department of Justice, is prohibited for U.S. exporters. This contrasts with the freedom of drug manufacturers throughout the rest of the world to readily move their products among and between international drug control treaty countries with no limit or restriction on exports. These limitations put U.S. manufacturers at a disadvantage by requiring more frequent and costly shipments to each individual country of use. We are effectively discouraging domestic manufacturing while encouraging U.S. drug exporters to move production overseas.

In addition, as the growing pharmaceutical manufacturing industry, is committed to maintaining a strong domestic base so that U.S. businesses can compete on a level playing field with our international competitors. But this industry faces an uncertain future unless we do something.

S. 1395, the Controlled Substances Export Reform Act of 2005, is the companion legislation to H.R. 184 that Rep. Joe Pitts and I introduced in the House, and that passed the House Judiciary and Energy and Commerce Committees. This legislation advances that goal by permitting the carefully regulated international transshipment of exported U.S. pharmaceuticals. The bill retains full DEA control over all drug exports and establishes strict permitting requirements to ensure drug safety while removing an unnecessary barrier to U.S. production and the growth of well-paid jobs.

Mr. Speaker, on behalf of the 500 Utah workers whose jobs may be endangered by current law, and on behalf of the many more workers we stand to gain by updating an outdated statute, I am pleased to support S. 1395 and urge the measure’s immediate adoption.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 1395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 544) 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.

The Clerk read as follows:

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 “Patient Safety and Quality Improvement Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to Public Health Service Act.

“PART C—PATIENT SAFETY IMPROVEMENT

"Sec. 921. Definitions. 
"Sec. 922. Privilege and confidentiality protections. 
"Sec. 923. Establishment of patient safety databases. 
"Sec. 924. Patient safety organization certification and listing. 
"Sec. 925. Technical assistance. 
"Sec. 926. Severability. 

SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERV-

ICE ACT.

(a) IN GENERAL.—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 912(c), by inserting “, in accordance with part C,” after “The Director shall”; 
(2) by redesignating section C as part D; and 
(3) by redesigning sections 921 through 928, as sections 931 through 938, respectively; 

(b) TECHNOLOGICAL ADVANCEMENTS.—In section 927(e)(2), the term ‘patient safety work product’ means any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements—

(1) which—

(A) are assembled or developed by a provider for reporting to a patient safety organization and are reported to a patient safety organization; or 
(B) are developed by a patient safety organization for the conduct of patient safety activities; and which could result in improved patient safety, health care quality, or health care outcomes; or 

(2) which identify or constitute the deliberations or analyses of, or identify the fact of reporting pursuant to, a patient safety evaluation system.

(c) CLARIFICATION.—

(i) Information described in subparagraph (A) does not include information that is collected, maintained, or developed separately, or exists separately, from a patient safety evaluation system. Such separate information or a copy thereof reported to a patient safety organization shall not be reason for its reporting be considered patient safety work product.

(ii) Nothing in this part shall be construed to limit—

(1) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

(2) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

(3) a provider’s recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

(d) PROVIDER.—The term ‘provider’ means—

(i) an individual or entity licensed or otherwise authorized under State law to provide health care services, including—

(A) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioners office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or 
(B) a physician, an assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

(A) any other individual or entity specified in regulations promulgated by the Secretary.

SEC. 922. PRIVILEGE AND CONFIDENTIALITY PRO-

TCTIONS.

(a) PRIVILEGEB.—Notwithstanding any other provision of Federal, State, or local
law, and subject to subsection (c), patient safety work product shall be privileged and shall not be—

(1) subject to a Federal, State, or local civil, criminal, or administrative disciplinary proceeding against a provider;

(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative disciplinary proceeding against a provider; or

(3) subject to disclosure pursuant to section 552 of title 5, United States Code (comprising the Freedom of Information Act) or any other similar Federal, State, or local law; or

(4) admitted as evidence in any Federal, State, or local governmental civil proceeding, criminal proceeding, administrative rulemaking proceeding, or administrative adjudicatory proceeding, including any such proceeding against a provider; or

(5) admitted in a professional disciplinary proceeding of a professional disciplinary body established or specifically authorized under Federal, State, or local law.

"(b) CONFIDENTIALITY OF PATIENT SAFETY WORK PRODUCT.—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be confidential and shall not be disclosed.

"(c) EXCEPTIONS.—Except as provided in subsection (g)(3), subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

(1) A Disclosure of relevant patient safety work product for use in a criminal proceeding by a court makes an in camera determination that such patient safety work product contains evidence of a criminal act and that such patient safety work product is material to the proceeding and not reasonably available from any other source.

(2) Disclosure of patient safety work product to the extent required to carry out subsection (i)(4)(A).

(3) Disclosure of identifiable patient safety work product if authorized by each provider responsible for the work product.

(4) Exceptions from confidentiality.—Subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

(A) Disclosure of patient safety work product to carry out patient safety activities.

(B) Disclosure of nonidentifiable patient safety work product.

(C) Disclosure of patient safety work product to grantees, contractors, or other entities carrying out research, evaluation, or demonstration projects authorized, funded, certified, or otherwise sanctioned by rule or other means by the Secretary, for the purpose of conducting research to the extent that disclosure of protected health information would be allowed for such purpose under the HIPAA confidentiality regulations.

(D) Disclosure by a provider to the Food and Drug Administration with respect to a product or activity regulated by the Food and Drug Administration.

(E) Disclosure of identifiable patient safety work product by a provider to an accreditating body that accredits that provider.

(F) Disclosures that the Secretary may determine by rule or other means, are necessary for business operations and are consistent with the goals of this part.

"(d) PATIENT SAFETY ORGANIZATIONS.—Subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

(1) Assess the quality of care of an identifiable provider; or

(2) Describe certain to one or more actions or failures to act by an identifiable provider.

(2) EXCEPTION.—Subsection (a) shall not apply to (and shall not be construed to prohibit) voluntary disclosure of nonidentifiable patient safety work product.

"(e) CONTINUOUS PROTECTION OF INFORMATION AFTER DISCLOSURE.—

(1) IN GENERAL.—Patient safety work product that is disclosed under subsection (c) shall continue to be confidential and privileged as provided for in subsections (a) and (b), and such disclosure shall not be treated as a waiver of privilege or confidentiality, and the privilege and confidential nature of such work product shall also apply to such work product in the possession or control of a person to whom such work product was disclosed.

(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3), if patient safety work product is disclosed for in subsection (c) (B) if patient safety work product is disclosed for in subsection (c) (B) (relating to disclosure of nonidentifiable patient safety work product), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such work product.

(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsections (a) and (b) and the first sentence of subsection (a) unless before the time of the assertion, the entity or, in the case of subsection (b), against an individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress each violation.

(4) EQUITABLE RELIEF.—

(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress each violation.

(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (e) to bar enforcement of this title by the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action described in subparagraph (A), and that consent has remained in effect.

(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(i) to limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

(ii) to limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

(iii) to exempt any individual, entity, or organization from the requirements of this section.

(i) NONAPPLICATION.—The limitation contained in clause (i) shall not apply in an action against a patient safety organization or with respect to disclosures pursuant to subsection (c)(1).

(ii) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety work product in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established or recognized by the Secretary with respect to disclosures pursuant to subsection (c)(1).

(iii) REPORTER PROTECTION.—

(A) IN GENERAL.—A provider may not take an adverse employment action, as described in section 4(d) of the Federal law, based on providing information that is not patient safety work product;

(B) DIRECTLY TO PATIENT.—A provider may not take an adverse employment action, as described in section 4(d) of the Federal law, based on providing information that is not patient safety work product; or

(C) AGAINST INDIVIDUAL.—For purposes of this subsection, an ‘adverse employment action’ includes—

(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

(6) ENFORCEMENT.—

(A) MONETARY PENALTY.—Subject to paragraphs (2) and (3), a person who discloses identifiable patient safety work product in knowing or reckless violation of subsection (b) shall be subject to a civil monetary penalty.

(B) PROCEDURE.—The provisions of section 1128A of the Social Security Act, other than subsection (a) of such section (as applied with respect to subsection (c)), shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a provider described in subsection 1128A of the Social Security Act.

(3) RELATION TO HIPAA.—Penalties shall not be imposed both under this subsection and under the regulations issued pursuant to section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) for a single act or omission.

(4) EQUITABLE RELIEF.—

(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress each violation.

(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (e) to bar enforcement of this title by the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action described in subparagraph (A), and that consent has remained in effect.

(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(i) to limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

(ii) to limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

(iii) to exempt any individual, entity, or organization from the requirements of this section;

(iv) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

(v) as preempting or otherwise affecting any Federal, State, or local law relating to patient safety; or

(vi) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

(vi) as preempting or otherwise affecting any Federal, State, or local law relating to patient safety; or

(vii) as preempting or otherwise affecting any provision of the HIPAA confidentiality regulations or section 117 of the Social Security Act (or regulations promulgated under such section).

(6) PENALTY.—Subsection (a) shall not be construed to bar an individual from providing information that is not patient safety work product; or

(7) EFFECT ON PRIVILEGE.—Nothing in this section shall be construed to have the effect of terminating or limiting the privilege or confidentiality protections provided for in this section.

(8) RELATION TO HIPAA.—Nothing in this section shall be construed to—

(i) limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

(ii) to limit, alter, or affect any requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

(iii) to exempt any individual, entity, or organization from the requirements of this section;

(iv) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

(v) as preempting or otherwise affecting any Federal, State, or local law relating to patient safety; or

(vi) as preempting or otherwise affecting any provision of the HIPAA confidentiality regulations or section 117 of the Social Security Act (or regulations promulgated under such section).
(a) In general.—The Secretary shall facilitate the creation of, and maintain, a network of patient safety databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other entities. The network shall have the capability to accept, aggregate across the network, and analyze nonidentifiable patient safety work product voluntarily reported by patient safety organizations, providers, or other entities.

The Secretary shall assess the feasibility of providing for a single point of access to the network for qualified researchers for information on the network and, if feasible, provide for implementation.

(b) Data standards.—The Secretary may determine common formats for the reporting to and among the network of patient safety databases maintained under subsection (a) of nonidentifiable patient safety work product, including the Secretary to encourage the use of common and consistent definitions, and a standardized computer interface for the processing of such work product to ensure that it is extensible, and such standards shall be consistent with the administrative simplification provisions of part C of title XI of the Social Security Act.

(c) Use of information.—Information reported to and among the network of patient safety databases under subsection (a) shall be used to coalesce data into and replicate statistical, including trends and patterns of health care errors. The information resulting from such analyses shall be made available to the public and included in the annual quality reports prepared under section 923(b)(2).

SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

(a) Certification.—

(1) Initial certification.—An entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity:

(A) has policies and procedures in place to perform each of the patient safety activities described in section 921(5); and

(B) upon being listed under subsection (d), will comply with the criteria described in subsection (b).

(2) Subsequent certifications.—An entity that is a patient safety organization shall submit every 18 months of its initial listing under subsection (d) a subsequent certification to the Secretary that the entity:

(A) is performing each of the patient safety activities described in section 921(5); and

(B) is complying with the criteria described in subsection (b).

(b) Criteria.—

(1) In general.—The following are criteria for the initial and subsequent certification of an entity as a patient safety organization:

(A) The mission and primary activity of the entity are to conduct activities that are to improve patient safety and the quality of health care.

(B) The entity has appropriately qualified staff (whether directly or through contract), including licensed or certified medical professionals.

(C) The entity, within each 24-month period that begins after the date of the initial listing under subsection (d), has bona fide contractual relationships of a reasonable period of time, with more than 1 provider for the purpose of receiving and reviewing patient safety work product.

(D) The entity is not, and is not a component of, a health insurance issuer (as defined in section 2791(b)(2)).

(E) The entity shall fully disclose any financial, reporting, or contractual relationship between the entity and any provider that contracts with the entity; and

(ii) if applicable, the fact that the entity is not managed, controlled, and operated independently from any provider that contracts with the entity.

(F) To the extent practical and appropriate to generate patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers.

(G) The utilization of patient safety work product for the purpose of providing direct feedback and assistance to providers to effectively minimize patient risk.

(H) And for component organizations.—If an entity that seeks to be a patient safety organization is a component of another organization, the following are additional criteria for the initial and subsequent certification of the entity as a patient safety organization:

(A) The entity maintains patient safety work product separate from the rest of the organization, and establishes appropriate security measures to maintain the confidentiality of the patient safety work product.

(B) The entity does not make an unauthorized disclosure under this part of patient safety work product to the rest of the organization in breach of confidentiality.

(C) The entity does not create a conflict of interest with the rest of the organization.

(c) Review of certification.—

(1) Initial certification.—Upon the submission by an entity of an initial certification under subsection (a)(1), the Secretary shall determine whether the requirements described in paragraphs (A) and (B) of such subsection.

(2) Notice of acceptance or non-acceptance.—If the Secretary determines that an entity’s initial certification meets requirements referred to in paragraph (1)(A), the Secretary shall notify the entity of the acceptance of such certification; or if an entity’s initial certification does not meet such requirements, the Secretary shall notify the entity that such certification is not accepted and the reasons therefor.

(3) Disclosures regarding relationship to providers.—The Secretary shall consider any disclosures under subsection (b)(1)(E) by an entity and shall make public findings on whether the entity can fairly and accurately perform the patient safety activities of a patient safety organization. The Secretary shall take those findings into consideration in determining whether to accept the entity’s initial certification and any subsequent certification submitted under subsection (a) and based on those findings, a condition, or revoke acceptance of the entity’s certification.

(d) Listing.—The Secretary shall compile and maintain a listing of entities with respect to which there is an acceptance of a certification pursuant to subsection (c)(2)(A) that has not been revoked under subsection (e) or voluntarily relinquished.

(e) Revocation of acceptance of certification.—

(1) In general.—If, after notice of deficiency, an opportunity for a hearing, and a reasonable opportunity for correction, the Secretary determines that a patient safety organization does not meet the certification requirements under subsection (a), the Secretary shall notify the entity that such certification is revoked and the reasons for such revocation.

(2) Supplying confirmation of notification to providers.—In a revocation under paragraph (1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken reasonable actions to notify each provider whose patient safety work product is collected or analyzed by the organization of such revocation.

(3) Publication of decision.—If the Secretary revokes the certification of an organization under paragraph (1), the Secretary shall:

(A) remove the organization from the listing maintained under subsection (d); and

(B) publish notice of the revocation in the Federal Register.

(f) Status of data after removal from listing.—

(1) New data.—With respect to the privilege and confidentiality protections described in section 922, data submitted by an entity within 30 days after the entity is removed from the listing under subsection (e)(3)(A) shall have the same status as data submitted while the entity was still listed.

(2) Protection to continue to apply.—If the privilege and confidentiality protections described in section 922 applied to patient safety work product or data after the entity was removed from the listing under subsection (e)(3)(A), such protections shall continue to apply to the work product or data after the entity is removed from the listing under subsection (e)(3)(A).

(g) Disposition of work product and data.—If the Secretary removes an entity from a patient safety organization from the listing as provided for in subsection (e)(3)(A), with respect
to the patient safety work product or data described in subsection (f)(1) that the patient safety organization received from another entity, such former patient safety organization shall—

"(1) with the approval of the other entity and a patient safety organization, transfer such work product or data to such patient safety organization;

"(2) return such work product or data to the entity that submitted the work product or data; or

"(3) if returning such work product or data to such entity is not practicable, destroy such work product or data.

SEC. 925. TECHNICAL ASSISTANCE.

The Comptroller General, through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

SEC. 926. SEVERABILITY.

"If any provision of this part is held to be unconstitutional, the remainder of this part shall not be affected."

(b) AUTHORIZATION OF APPROPRIATIONS.—

Sec 1.76 of the Health Service Act (as redesignated by subsection (a)) is amended by adding at the end the following:

"(e) PATIENT SAFETY AND QUALITY IMPROVEMENT.

For the purpose of carrying out part C, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010."

(c) STUDY ON IMPLEMENTATION.

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of part C of title IX of the Public Health Service Act (as added by subsection (a)) in accomplishing the purposes of such part.

(2) REPORT.—Not later than February 1, 2010, the Comptroller General shall submit a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such part as the Comptroller General deems appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chairman recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 544, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

The Chairman recognizes the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of S. 544, the Patient Safety and Quality Improvement Act of 2005.

This bill reflects the bipartisan and bicameral agreement of the leadership of the Committee on Energy and Commerce and the Senate Committee on Health, Education, Labor, and Pension.

The bill is identical to H.R. 3205, which was passed by the Committee on Energy and Commerce last week.

In 1999, the Institute of Medicine first identified that up to 98,000 Americans die every year as a result of preventable medical errors. In the report, entitled "To Err is Human," the IOM recommended that Congress pass legislation to protect the development and analysis of information related to improving safety and quality. The Patient Safety and Quality Improvement Act of 2005 codifies the principal recommendations made in the IOM report.

This bill will assist in promoting a culture of safety and quality; and, more important, it will save lives. The bill encourages providers, such as hospitals and physicians, to share information with HH-S certified patient safety organizations to assess ways in which to improve the delivery of health care and reduce medical errors. Information regarding patients, providers, and reporters, called patient safety work product, would now remain confidential and protected.

Mr. Speaker, the bill fosters open and honest communication among providers and patient safety organizations to achieve an environment where providers are able to discuss errors openly and learn from them. The bill also provides a framework for improving patient safety work product in most court or administrative proceedings.

In addition to enjoying bipartisan support, this bill is also supported by providers and consumer groups. These include the American Medical Association, the American Hospital Association, the American College of Surgeons, and the AARP.

This new language builds directly on the work of our colleague, the gentleman from Florida (Mr. BILIRAKIS), who worked to develop a bipartisan patient safety bill that passed by over 400 votes in the last Congress.

I also want to recognize Senators Enzi and Kennedy; our ranking member, the gentleman from Michigan (Mr. DINGELL); and the ranking member of the Subcommittee on Health, the gentleman from Ohio (Mr. BROWN), for their leadership in this effort. They, along with the House Committee on Energy and Commerce and the Senate HELP Committee, deserve our thanks for producing this important bipartisan bill.

I also specifically would like to recognize Andrew Patzman and David Bowen from the Senate HELP Committee, along with Bridgett Taylor, Purvey Kempf, Nandan Kenkermath, Melissa Bartlett, and Brandon Clark for their hard work on this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. BILIRAKIS), the original sponsor of this legislation in the past Congress and one who has continued to work on it.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me this time; and I, too, obviously, support S. 544, which is the exact Senate counterpart to H.R. 3205, the legislation on which I and so many others have worked for several years to reduce medical errors and save lives.

The landmark 1999 Institute of Medicine report entitled "To Err is Human," found that as many as 98,000 people die each year from preventable medical errors. The IOM report noted these errors may cost taxpayers as much as $290 billion each year, in addition to the incalculable pain and suffering experienced by those who lose loved ones as a result of medical errors.

The Patient Safety and Quality Improvement Act will implement many of the IOM’s recommendations for reducing medical errors. This legislation will establish a framework within which providers can voluntarily report medical errors to patient safety organizations, which in turn would analyze the data and recommend steps providers could take to prevent such errors from occurring in the future.

These patient safety organizations will be empowered to compile reports on errors and near-misses, determine the causes of these errors or near-errors, identify the changes that need to be made to the health care delivery system to prevent errors in the future, and implement needed changes.

Their work will be invaluable in identifying national trends on medical errors and recommending how to prevent them.

The legislation encourages providers to share information about medical mistakes by preventing the information that they have created specifically to report to patient safety organizations from being used against them. The bill would preclude this information, termed patient safety work product, from being used against providers in civil and administrative proceedings, disclosed pursuant to Freedom of Information Act requests, or used to carry out adverse personnel actions.

The bill does not shield other information outside this patient safety work product from use in court cases. I believe it strikes an appropriate balance between encouraging the reporting of valuable information, which will be used to save lives, and safeguarding the ability of individuals to access necessary information to seek judicial redress when appropriate.

I believe that Congress must pass the Patient Safety and Quality Improvement Act to encourage the voluntary reporting of information on medical errors. Doing so will help create a culture of awareness to expose and address the systemic causes of these errors instead of continuing the culture of blame which hides and perpetuates them.

Mr. Speaker, I want to thank several individuals: Chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON); and the chairman of the Subcommittee on Health, the gentleman from Georgia (Mr. DEAL). They have shared my commitment to making medical errors as rare as possible and minimizing the horror caused by these errors.

I also want to thank the ranking member, the gentleman from Michigan (Mr. DINGELL), and the subcommittee ranking member, the
Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORE of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the Patient Safety and Quality Improvement Act of 2005. I am a proud cosponsor of this bill, and I know that this is a bill that the gentleman from Florida (Mr. BILLRAKIS), has been working on for at least 5 years. And so now I am happy to see it finally come to the floor and will become law, hopefully.

Mr. Speaker, we must acknowledge that any error that causes harm to a patient is one too many. While our health care system may never be perfect, we must strive for the best care for our Nation’s patients. I am happy that this legislation begins to improve the ability to connect information about errors and near-errors between doctors, researchers, and patients.

However, as I have stated for years, a key step to improving care should be also the passage of meaningful patient protections under Federal law. When insurers and employers are concerned about the cost of health care, the quality of patient care can be jeopardized for the bottom line. This breeds improper care, and it breeds medical error.

In this light, this legislation is an important first step. This bill will encourage the creation of patient safety organizations that will connect our health care system with a national patient safety database. While I will concede that I wish we were mandating more in this legislation about reporting errors and getting that information to patients, I stress that this is an essential, important first step.

Mr. Speaker, I urge all our colleagues to support the Patient Safety and Quality Improvement Act.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

It is tragic when Americans die prematurely despite modern medicine. It is heartbreaking when Americans die because of medical errors. Medical errors take lives, medical errors waste money, and medical errors are largely preventable.

Based on available data, medical errors kill up to 100,000 Americans every year. That number, for sure, is a ballpark estimate because we know that medical errors are underreported. That is disturbing, but hardly surprising. The reality is that the consequences of reporting medical errors can be onerous, so many doctors who commit obvious witness medical errors from documenting them.

This legislation is intended to overcome that obstacle. To reduce the number of medical errors, we need to understand what causes them and address those causes. Accurate and complete information on medical errors is the first step. H.R. 3205, or S. 544, creates a secure voluntary medical error reporting system. The system is carefully crafted to encourage information-sharing without undermining the ability of patients to obtain justice when they are harmed and to help the health care system identify the root causes of medical errors without hindering the prosecution of criminal acts.

My friend, the gentleman from Florida (Mr. BILLRAKIS), and I have been working on this legislation for several years. I appreciate his leadership on this issue, as well as that of the subcommittee chairman, the gentleman from Georgia (Mr. DEAL), and our ranking member on the full committee, the gentleman from Michigan (Mr. DINGELL), along with the chairman of the full committee, the gentleman from Texas (Mr. BARTON).

I would also like to commend committee staff on both sides of the aisle for their hard work to reach a solid bipartisan compromise on this bill. H.R. 3205/S. 544 will strengthen our health care system and save lives, and I urge my colleagues’ support of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORE of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the Patient Safety and Quality Improvement Act of 2005. I am a proud cosponsor of this bill, and I know that this is a bill that the gentleman from Florida (Mr. BILLRAKIS), has been working on for at least 5 years. And so now I am happy to see it finally come to the floor and will become law, hopefully.

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However, as I have stated for years, a key step to improving care should be also the passage of meaningful patient protections under Federal law. When insurers and employers are concerned about the cost of health care, the quality of patient care can be jeopardized for the bottom line. This breeds improper care, and it breeds medical error.

In this light, this legislation is an important first step. This bill will encourage the creation of patient safety organizations that will connect our health care system with a national patient safety database. While I will concede that I wish we were mandating more in this legislation about reporting errors and getting that information to patients, I stress that this is an essential, important first step.

The bill helps develop a culture of safety that encourages information sharing. When an error occurs, it is important to learn from it so as to not repeat that mistake. This makes the community comfortable with reporting errors and near errors, and this bill begins to do just that.

This bill presents us with an opportunity to stand up for patients, and I urge all of my colleagues to join us in supporting it.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Rhode Island (Mr. KENNEDY) who has been a strong advocate during his several terms in Congress for patient safety and for patients generally.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. BROWN) for his leadership in this area, as well as the gentleman from Florida (Mr. BILLRAKIS) for his, in addition to the committee chairman, the gentleman from Texas (Mr. BARTON), and the ranking member of the gentleman from Michigan (Mr. DINGELL).

Of the many bills we are talking about on the floor this week, this is the only one that is really addressing the one problem in our health care system. We stand here in the well of the House, all of us from both sides of the aisle, pontificating about the high cost of care, malpractice rates, access to prescription drugs, or the uninsured. All of these are serious problems with big negative impacts on people, but these issues are all symptomatic of a real problem in health care. Our system is not set up to get the right care at the right time to the right people.

Where Medicare has had a single procedure. That procedure has been done all around the country, and even in the markets where it costs us the most, we often see where we have the worst outcomes. We have to ask ourselves why is it that we are paying more and getting less results? This bill does a lot to address that problem. We need to learn from our mistakes and use them to make better decisions in the future.

This is a bill that is carefully designed to compromise so we do not have a situation where we close down people’s right to seek redress for those that are seriously and grievously injured in the course of their health care. This is a bill that is the tip of the iceberg in what we will do to transform health care. We need to pass a strong health care information technology bill. This bill was reported out of the committee and I think it will go everywhere the way to getting this on the road, but I hope that we continue in this legislative session to move us even further, where we begin as a country to make our health care system come up to the same level of technology as every other area in our country is right now.

It is inconceivable that people can have an ATM card and get information
Mr. Speaker, I am pleased the United States Congress has finally come to an agreement on a level-headed approach to error reporting and will set quality standards in medicine. This opacity has not served anyone well with the possible exception of the plaintiff who has not served anyone well with the practice of medicine. This opacity, and it has become nearly impossible to learn from the error, you cannot learn from the mistake and never prevent it from happening again.

We have an environment right now that punishes doctors for perceived or actual mistakes by lawsuits and regulation, and it has become nearly impossible to encourage true transparency in the practice of medicine. This opacity has not served anyone well with the possible exception of the plaintiff who has not served anyone well with the practice of medicine. This opacity, and it has become nearly impossible to learn from the error, you cannot learn from the mistake and never prevent it from happening again.

The Committee has been working for many years on legislation to bring forward the building blocks of this system, and in the 108th Congress, we successfully passed bipartisan legislation in the House. Only this Congress, however, did we successfully reach a compromise with our colleagues in the Senate. I am pleased that today we will finally pass the Patient Safety and Quality Improvement Act of 2005, with the expectation that it will be enacted into law.

S. 544, the Senate companion bill to H.R. 3205, contains the same language as the House bill approved unanimously by the Committee on Energy and Commerce last week. The goal of H.R. 3205 is to set up an error reporting system for health care providers that brings real improvements in patient safety and the quality of health care. It will also help ensure accountability by raising standards and creating the expectation for continuous quality improvements in patient safety. This bill achieves these goals by creating a helpful and non-punitive atmosphere for health care providers. It will also provide the incentive for health care providers to work together to improve patient safety and quality.

The SPEAKER pro tempore (Mr. CULBERTSON). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 544.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative for the bill. It is so ordered.
The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

DRUG ADDICTION TREATMENT EXPANSION ACT

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 45) to amend the Controlled Substance Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE OR DETOXIFICATION TREATMENT WITH CERTAIN NARCOTIC DRUGS; ELIMINATION OF 30-PATIENT LIMIT FOR GROUP PRACTICES.

(a) In General.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended by striking clause (iv).

(b) Conforming Amendment.—Section 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C. 823(g)(2)(B)) is amended in clause (ii) by striking “in any case” and all that follows through “the total” and inserting “The total”.

(c) Effective Date.—This section shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to review and extend their remarks and include extraneous material in the consideration of this Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Speaker for allowing us to consider the Drug Addiction Treatment Expansion Act, S. 45.

In 2000, Congress passed the Drug Addiction Treatment Act which has resulted in improved access to drug abuse treatment. This law has allowed qualified practitioners to prescribe addiction treatment medications from their office settings so long as the number of patients to whom the practitioner provides such treatment does not exceed 30 patients.

However, the Drug Addiction Treatment Act also limited the number of patients any one doctor could treat to 30 as well. This limitation has created an unnecessary barrier to access to drug addiction therapy. Under current law, a practice of 500 doctors would still be limited to treating only 30 patients in the same way as a single physician. This policy effectively limits the ability of patients to get access to treatment for their drug addictions.

This legislation before us today would lift the patient limit for group practices, but would still keep in place the 30-patient limit for individual physicians.

I thank the gentleman from Indiana (Mr. SOUDER) for his leadership on this legislation that further expands access to needed addiction therapy. The Committee on Energy and Commerce and the Committee on the Judiciary have both favorably reported companion bills to S. 45, and I urge my colleagues to support this legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Drug addiction is a problem we must face both at the individual and the systemic level. We bear the cost of addiction as a society. These costs are measured in lives and unmet human potential; and, frankly, in dollars.

A recent study by the National Institutes of Health found an annual cost of drug abuse totaled some $100 billion a year, costs borne by all members of society by increased demand on our health care system and our criminal justice system.

H.R. 869, the Drug Addiction Treatment Expansion Act, addresses an anomaly in the current law that limits access to an effective drug addiction treatment.

To ensure proper oversight of drug addiction treatment, current law limits the number of patients any one doctor can treat. However, this restriction inadvertently limits group practices to the same 30-patient limit. This legislation clarifies that each doctor in a group practice is subject to the 30-patient limit, not the group practice as a whole.

This bill will expand access to effective addiction treatment. When we come together to fight addiction, we must use every means available. This bill gives doctors an improved and important tool. H.R. 869 has the support of a range of organizations, including the American Psychological Association and the Partnership for a Drug Free America. I am pleased to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER), who is the author of the House companion legislation.

Mr. SOUDER. I thank the gentleman from Georgia, and I appreciate his leadership in moving this through his subcommittee. We served together on the Drug Policy committee in Government Reform where he served ably as vice chairman before moving up to this important subcommittee chairmanship over in Energy and Commerce and understands directly the need for drug treatment.

Mr. Speaker, we can work for eradication. We can work for education. We can work for treatment and for prevention. We can work to try to seize it as it moves through the Caribbean and through the Pacific. We can work to try to catch it at the borders. We can try to take down the delivery mechanism.

We will continue to do that. We will continue to work through our national ad campaign, through school programs to try to prevent drug use. But ultimately many people in America become addicted. The question is: How can we treat them? As has already been explained, this was an unintended consequence of the original act. I appreciate Senator LEVIN’s help on the Senate side in moving this bill that group practices were capped at 30 patients as well.

Between 1997 and 2000, the number of treatment admissions for primary heroin abuse increased 21 percent while treatment admissions for primary abuse of narcotic painkillers increased unprecedentedly. In view of the skyrocketing numbers of treatment admissions for primary opiate addiction in recent years, it is imperative that measures be taken at the Federal level to provide adequate treatment options. The epidemic of drug abuse in America, drug addiction treatment programs must effectively correspond to the widespread nature of this problem. In order to expand drug treatment programs, please support this bill, the Drug Addiction Treatment Expansion Act, which will remove the 30-patient limit currently imposed on group practices.

According to the American Medical Association, the current 30-patient cap has limited access to effective substance abuse treatment services. There is a broad consensus according to AMA in the medical community that buprenorphine is a major new tool to fight addiction and does not have a high potential for misuse or fatal overdose. Lifting the cap would enable group practices to treat more patients with this highly effective drug.

There are 49 different, well-respected drug treatment organizations that support this bill, including the American Medical Association, the National Association of State Alcohol and Drug Abuse Directors, the American Psychiatric Association, the American Psychological Association, the Association of American Medical Colleges, the American Society of Community Health Plans, and the American Medical Group Association.

And then in addition to all these medical groups, are almost all the major anti-drug groups in America, including the Partnership for a Drug-Free America, the Community Anti-Drug Coalitions of America, Drug-Free Schools Coalition, Drug-Free America.
Foundation, the Save Our Society From Drugs, Drug-Free Kids, America’s Challenge.

I include this list of 49 groups for the RECORD.

American Medical Association (AMA)
National Commonwealth of State Alcohol and Drug Abuse Directors (NASADAD)
American Psychiatric Association (APA)
National Association of Counties (NACO)
American Psychological Association (APA)
National Association of Counties Behavioral Health Officials (NASBHO)
Association of American Medical Colleges (AAMC)
Alliance of Community Health Plans (ACHP)
American Association of Addiction Psychiatrists (AAAP)
Partnership for a Drug-Free America
Community Anti-Drug Coalitions of America (CADCA)
American Society of Addiction Medicine (ASAM)
American Association for the Treatment of Opioid Dependence (AATOD)
Legal Action Center (LAC)
National Alliance of Methadone Advocates (NAMA)
National Association of Drug Court Professionals (NADCP)
National Council on Alcoholism and Drug Dependence (NCADD)
State Associations of Addiction Services (SAAS)
National Association of Counties (NACO)
Kaiser Permanente
National Association of County and City Health Officials (NACCHO)
National Association of County Behavioral Health Directors (NACBDH)
The College on Problem of Drug Dependence (CPDD)
The Friends of NIDA
Faces & Voices of Recovery
Association for Addiction Professionals of New York
Drug-Free Schools Coalition
Drug Free America Foundation, Inc. (DFAF)
Save Our Society From Drugs (SOS)
Drug-Free Kids: America’s Challenge
Advocates for Recovery Through Medicine (ARM)
National Families in Action (NFIA)
National Association of Social Workers (NASW)
Man Alive, Inc.
Institute on Global Drug Policy (IDGP)
International Scientific and Medical Forum on Drug Abuse
Californians For Drug-Free Youth (CADDY)
National Alliance of Advocates for Buprenorphine Treatment, Inc.
Christian Drug Education Center
New Jersey Federation for Drug Free Communities
Wisconsin Families in Action (WFIA)
New York Academy of Medicine (NYAM)
American Academy of Pediatrics (AAP)
Association for Medical Education and Research in Substance Abuse (AMESRA)
Physicians and Lawyers for National Drug Policy (PLNDP)
Entertainment Industries Council, Inc. (EIC)
The City of New York, New York
Providence Breakthrough
International Study Group Investigating Drugs as Reversers (ISGIDAR)
Housing Works

I think that we can unanimously support this bipartisan effort to make sure that we have another tool in an ade-
quate way with group practices to make sure that we can treat the scourge of drug addiction and help many family members get back into their families, whatever it be the mom, the dad, the kids; and this is the way we can in a bipartisan way and with the other important things we are currently are contending trying to address these difficult questions of drug treatment.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, I am the lone co-sponsor of the bill to require the high demand for drug treatment. However, S. 45 would eliminate this disparity by removing the 30-patient limit imposed on group practices, thereby enabling access to treatment for all patients regardless of where they receive their medical care.

S. 45 is especially important for my district which includes Baltimore City. According to the latest data available, Baltimore has the third highest rate among all the metropolitan areas reporting this information. Further, Baltimore’s heroin use ranked at 195, which is much higher than the national rate of 37. Heroin abuse counted for the most drug treatment admissions to publicly funded facilities in the city from July 1, 2001, through June 30, 2002. In addition, mortality data indicate that there were 349 heroin/morphine-related deaths in the Baltimore metropolitan area in 2001, more than for any other illicit drug

I must also note heroin abuse via injection has contributed significantly to the number of HIV cases in the Baltimore area. S. 45 would greatly reduce these numbers by increasing the availability of treatment medications such as buprenorphine or “bup” in institutions such as teaching hospitals and community health clinics. Treatment medications such as buprenorphine will allow more people to remain productive while trying to overcome their drug addiction. Experts say that buprenorphine leaves patients more clearheaded than methadone and produces less intense withdrawal symptoms. They point out that in the brain, buprenorphine behaves like heroin but works more slowly and less efficiently than other opiates. In other words, this specific treatment reduces or eliminates withdrawal symptoms without producing euphoria.

When we passed the law in 2000, our legislation limited bup’s availability because we wanted to avoid the creation of prescription-writing mills. It is important to note that this bill will not open prescription-writing mills. Rather, it would expand access so that more physicians in large group practices would be able to prescribe the drug.

I urge my colleagues to support S. 45. This is an important piece of legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.
Mr. DEAL of Georgia. Mr. Speaker, I would simply urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBORN). The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and pass the Senate bill, S. 45.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays. The yea and nay votes are ordered.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays. The yea and nay votes are ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2005

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1132) to provide for the establishment of a controlled substance monitoring program in each State, as amended.

The Clerk reads as follows:

H.R. 1132

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 All Schedules Prescription Electronic Reporting Act of 2005”.

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) foster the establishment of State-administered controlled substance monitoring systems in order that health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of pain or drug addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction;

(2) establish, based on the experiences of existing State controlled substance monitoring programs, a set of best practices to guide the establishment of new State programs and the improvement of existing programs.

SEC. 3. CONTROLLED SUBSTANCE MONITORING PROGRAM.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding after section 399N the following:

SEC. 399O. CONTROLLED SUBSTANCE MONITORING PROGRAM.

“(a) GRANTS.—

“(1) IN GENERAL.—Each fiscal year, the Secretary shall make grants to each State with an application approved under this section that enable the State—

“(A) to establish and implement a State controlled substance monitoring program; or

“(B) to make improvements to an existing State controlled substance monitoring program.

“(2) DETERMINATION OF AMOUNT.—

“(A) MINIMUM AMOUNT.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an amount that equals 1.0 percent of the amount appropriated to carry out this section for that fiscal year.

“(B) ADDITIONAL AMOUNT.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an additional amount which bears the same ratio to the amount appropriated to carry out this section for that fiscal year as the amount remaining after amounts are made available under subparagraph (A) as the number of pharmacies of the State bears to the number of pharmacies of all States with applications approved under this section (as determined by the Secretary), except that the Secretary may adjust the amount allocated to a State under this subparagraph after taking into consideration the budget cost estimate for the State’s controlled substance monitoring program.

“(c) Payments.—Payments awarded under this section shall be obligated in the year in which funds are allotted.

“(d) DEVELOPMENT OF MINIMUM REQUIREMENTS.—

“(1) IN GENERAL.—At the time of the application under this section, and not later than 6 months after the date on which funds are first appropriated to carry out this section, the Attorney General shall enter into a cooperative agreement with the National Trade Organization for High Technology Drug Monitoring to establish minimum requirements for criteria to be used by States for purposes of clauses (ii), (vi), and (vii) of subsection (c)(1)(A).

“(2) APPLICATION APPROVAL PROCESS.—

“(i) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such assurances and information as the Secretary may require. Each such application shall include—

“(A) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(A),—

“(I) a budget cost estimate for the controlled substance monitoring program to be implemented under the grant;

“(II) criteria for ensuring the security of information maintained in the database; and

“(B) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(B)—

“(I) a budget cost estimate for the controlled substance monitoring program to be improved under the grant;

“(II) a plan for ensuring that the State controlled substance monitoring program is in compliance with the criteria and penalty requirements described in clauses (ii) through (viii) of subparagraph (A);

“(III) a plan to enable the State controlled substance monitoring program to achieve interoperability with at least one other State controlled substance monitoring program;

“(IV) assurances of compliance with all other requirements of this section or a statement describing why such compliance is not feasible or is contrary to the best interests of public health in such State.

“(2) STATE LEGISLATION.—As part of an application under paragraph (1), the Secretary shall require a State to demonstrate that the State has enacted legislation or regulations to permit the implementation of the State controlled substance monitoring program and the imposition of or appropriate penalties for the unauthorized use and disclosure of information maintained in such program.

“(3) INTEROPERABILITY.—If a State that submits an application under this section geographically borders another State that is operating a controlled substance monitoring program under section (a)(1), on the date of the submission of such application, such applicant State has not achieved interoperability for purposes of information sharing between its monitoring program and the monitoring program of such border State, such applicant State shall, as part of the plan under paragraph (1)(B)(iii), describe the measures which the State will take to achieve interoperability between the monitoring programs of such States.

“(4) APPROVAL.—If a State submits an application in accordance with this subsection, the Secretary shall approve such application.

“(5) RETURN OF FUNDS.—If the Secretary withdraws approval of a State’s application under this section, or the State chooses to cease to implement or improve a controlled substance monitoring program under this section, a funding agreement for the receipt of funds under this subsection shall require the Secretary to return to the State the overall time period for which the grant was awarded, less any expenditures of such funds by the State.

“(d) REPORTING REQUIREMENTS.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under section (a)(1)(B) submit to the Secretary for approval a statement of why such compliance is not feasible or is contrary to the best interests of public health in such State, with the following:

“(1) The State shall require dispensers to report to such State each dispensing in the State of a controlled substance to an ultimate user not later than 1 week after the date of such dispensing.

“(2) The State may exclude from the reporting requirement of this subsection—

“(A) the direct administration of a controlled substance to the body of an ultimate user;

“(B) the dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less;

“(C) the administration or dispensing of a controlled substance in accordance with any
other exclusion identified by the Secretary for purposes of this paragraph.

"(3) The information to be reported under this subsection with respect to the dispensing of a controlled substance shall include the following:

"(A) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) of the dispenser.

"(B) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) and name of the practitioner who prescribed the drug.

"(C) Name, address, and telephone number of the individual with whom the contact information of the ultimate user as the Secretary determines appropriate.

"(D) Identification of the drug by a national drug code number.

"(E) Quantity dispensed.

"(F) Number of refills ordered.

"(G) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

"(H) Date of the dispensing.

"(i) Date of origin of the prescription.

"(J) Form of information as may be required by State law to be reported under this subsection.

"(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under subsection (h), except that the State may waive the requirement of such format with respect to an individual dispenser that is unable to submit such information by electronic means.

"(e) DATABASE.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply with the following:

"(1) The State shall establish and maintain an electronic database containing the information reported to the State under subsection (d).

"(2) The database must be searchable by any field or combination of fields.

"(3) The State shall include reported information in the database in a manner consistent with criteria established by the Secretary to ensure the integrity of, and access to, the database.

"(f) USE AND DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—Subject to subsection (g), in implementing or improving a controlled substance monitoring program under this section, a State may disclose information from the database established under subsection (e) and, in the case of a request under subparagraph (D), summary statistics of such information, only in response to a request.

"(A) a practitioner (or the agent thereof) who certifies, under the procedures determined by the State, that the requested information is for the purpose of providing medical or pharmaceutical treatment or evaluating the need for such treatment to a bona fide current patient;

"(B) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an individual investigation or proceeding involving the unlawful diversion or misuse of a schedule II, III, or IV substance, and such information will further the purpose of the investigation or assist in the proceeding;

"(C) the controlled substance monitoring program of another State or group of States with whom the State has established an interoperability agreement;

"(D) any State, the Department of Health and Human Services, a State medical program, a State health department, or the Drug Enforcement Administration who certifies, under the procedures determined by the Secretary, that such information is necessary for research to be conducted by such department, program, or administration, respectively, and the intended purpose of such research is committed to such department, program, or administration by law that is not investigatory in nature;

"(E) an agent of the State agency or entity of another State that is responsible for the establishment and maintenance of that State's controlled substance monitoring program, who certifies that—

"(i) the State has an application approved under this section; and

"(ii) the requested information is for the purpose of implementing the State's controlled substance monitoring program under this section.

"(2) DISCLOSURE OF INFORMATION.—In consultation with practitioners, dispensers, and other relevant and interested stakeholders, a State receiving a request under subsection (a) may disclose information in the database maintained by the State under subsection (e) that is nonidentifiable to help identify and prevent the unlawful diversion or misuse of controlled substances and:

"(A) shall develop a program to notify practitioners and dispensers of information that will help identify and prevent the unlawful diversion or misuse of controlled substances;

"(B) may, to the extent permitted under State law, notify the appropriate authorities responsible for carrying out drug diversion investigations that determines that information in the database maintained by the State under subsection (e) indicates an unlawful diversion or abuse of a controlled substance.

"(g) LIMITATIONS.—In implementing or improving a controlled substance monitoring program under this section, a State shall—

"(1) limit the information provided pursuant to a valid request under subsection (f)(1) to the minimum necessary to accomplish the intended purpose of the request; and

"(2) limit information provided in response to a request under subsection (f)(1)(D) to nonidentifiable information.

"(h) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and disclosure of information under this section.

"(i) RULES OF CONSTRUCTION.—

"(1) FUNCTIONS OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be construed to restrict the ability of any authority, including any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, to perform functions otherwise authorized by law.

"(2) NO PREEMPTION.—Nothing in this section shall be construed to preempt any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

"(3) ADDITIONAL PRIVACY PROTECTIONS.—Nothing in this section shall be construed as preempting any State law from imposing any additional privacy protections.

"(4) FEDERAL PRIVACY REQUIREMENTS.—Nothing in this section shall be construed to supersede any Federal privacy or confidentiality requirement, including the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) and section 545 of the Public Health Service Act.

"(G) NO FEDERAL PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to create a Federal private cause of action.

"(j) STUDIES AND REPORTS.—

"(1) IMPLEMENTATION REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, based on a review of existing State controlled substance monitoring programs and other relevant information, shall determine whether the implementation of such programs has had a substantial negative impact on—

"(i) patient access to treatment, including therapies for pain or controlled substance abuse; and

"(ii) pediatric patient access to treatment or

"(iii) patient enrollment in research or clinical trials in which, following the protocol that has been approved by the relevant institutional review board for the research or clinical trial, the patient has obtained a controlled substance from either the scientific investigator conducting such research or clinical trial or the agent thereof.

"(B) ADDITIONAL CATEGORIES OF EXCLUSION.—If the Secretary determines under subparagraph (A) that a substantial negative impact has been demonstrated with regard to one or more of the categories of patients described in such subparagraph, the Secretary shall identify additional appropriate categories of exclusion as necessary for the purposes of maintaining the program as authorized under subsection (d)(2)(C).

"(2) PROGRESS REPORT.—Not later than 3 years after the date on which funds are first appropriated under this section, the Secretary shall—

"(A) complete a study that—

"(i) determines the progress of States in establishing and implementing controlled substance monitoring programs under this section;

"(ii) provides an analysis of the extent to which the operation of controlled substance monitoring programs have reduced inappropriate use, abuse, or diversion of controlled substances or affected patient access to appropriate pain care in States operating such programs;

"(iii) determines the progress of States in achieving interoperability between controlled substance monitoring programs, including an assessment of technological and legal barriers to such activities and recommendations for addressing these barriers;

"(iv) determines the need for implementation of a real-time electronic controlled substance monitoring program, including the costs associated with establishing such a program;

"(v) provides an analysis of the privacy protections in place for the information reported to the controlled substance monitoring program in each State receiving a grant for the establishment or operation of such program, and any recommendations for additional requirements for protection of this information;

"(vi) determines the feasibility of implementing technological alternatives to centralized data storage, such as peer-to-peer file sharing or data pointer systems, in controlled substance monitoring programs and the potential for such alternatives to enhance the privacy and security of individually identifiable data; and

"(vii) evaluates the penalties that States have enacted for the unauthorized use and disclosure of information maintained in the controlled substance monitoring program, and reports on the criteria used by the Secretary to determine whether such penalties qualify as appropriate pursuant to this section.

"(B) submit a report to the Congress on the results of the study.
The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to insert extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consider necessary.

Mr. Speaker, we are facing a growing national health care crisis involving the abuse of prescription drugs. Earlier this month, Columbia University released a report that showed that more Americans are now abusing controlled prescription drugs than cocaine, hallucinogens, inhalants and heroin combined. The report also stated the number of Americans who admit abusing prescription drugs nearly doubled from 2001 to 2003. Eighteen percent of the U.S. population, while abuse among teens has tripled. H.R. 1132 will provide immediate assistance to States to help them reduce prescription drug abuse. The bill will provide new funding to help States establish and operate data systems that will allow physicians to detect and prevent prescription drug abuse.

Physicians are on the front line of providing care to patients and understand the need to stop prescription drug abuse. H.R. 1132 will provide physicians with the tools they need to learn when their patients attempt to obtain multiple prescriptions for addictive drugs. The bill will also allow physicians to continue to provide proper medication therapy to their patients. This is why groups like the American Medical Association, the American Society of Anesthesiologists, and the American Society of Interventional Pain Physicians all support this legislative effort.

I would like to thank the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Georgia (Mr. NORWOOD), the gentleman from New Jersey (Mr. PALLONE), the gentleman from Ohio (Mr. STRICKLAND), members of the Energy and Commerce Committee, for their efforts on this bill. As a result of their hard work, the bill has been strengthened and improved from last year when the House approved similar legislation by voice vote.

Among the many improvements are requirements that drug monitoring programs meet new standards for the security of information handling, availability of information, limitations on access to the database, and procedures to ensure database accuracy.

I would also like to thank the staff of the Energy and Commerce Committee for their hard work and in particular thank Ryan Long and John Ford for their efforts to negotiate a bipartisan agreement on this bill. H.R. 1132 will allow States to reduce the improper abuse of prescription drugs and ensure that monitoring programs can communicate with each other to stifle Interstate drug diversion. I urge my colleagues to support this needed legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Prescription pain relievers, stimulants, and other controlled substances play a crucial role in health care; but when misused, these same medicines can be enormously destructive. Some are addictive. Some are life-threatening. Many are treated as medications that proliferate, so, unfortunately, does the risk of misuse. Over the last decade, use of prescription pain relievers increased by almost 200 percent while the use of stimulants increased by more than 150 percent. An estimated 6.2 million Americans misuse prescription medications for nonmedicinal purposes.

In 1999, a quarter of those taking prescription drugs for nonmedical purposes were new users. In other words, this problem is not just growing, it is exploding. To combat this abuse, physicians and pharmacists need information. This legislation, the culmination of hard work and compromise, as the gentleman from Georgia pointed out, by the gentleman from New Jersey (Mr. PALLONE), the gentleman from Kentucky (Mr. WHITFIELD), the gentleman from Georgia (Mr. NORWOOD) who is here today and the gentleman from Ohio (Mr. STRICKLAND), will provide the information and coordination necessary to stem the misuse of prescription medicines.

The legislation creates grants to establish State-run programs for prescription monitoring that will be administered and coordinated at the Federal level. Over 20 States currently have such a program in place or are working to develop one. Fighting prescription drug abuse is a difficult problem that requires doctors and law enforcement authorities to acquire and share information. For this reason, groups like the American Medical Association and the American Society of Interventional Pain Physicians have lent their endorsement to this bill. I believe this bill is an important step forward in this fight and am pleased to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD).
Mr. NORWOOD. I thank my friend for yielding me the time.

Mr. Speaker, this is a bill that we have been working hard to get passed for some time now. I would like to begin by really thanking all the people who have helped us get this bill to the floor. The gentleman from Kentucky (Mr. WHITFIELD) and his staff have just done amazing work. A few years ago, I had a bill like this and the gentleman from Kentucky had a bill like this and it shows that we can work together. We merged and came up with the good product today. I do appreciate the efforts of our Democratic cosponsors, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Ohio (Mr. STRICKLAND). I would like to also thank Chairman BARTON and Chairman DEAL and Ranking Members DINGELL and BROWN for recognizing the importance of this issue and helping us move forward.

Mr. Speaker, prescription drug abuse in this country is a serious problem. I know it. I have seen it. It is a subject with which I have some experience. I experienced it in Vietnam treating wounded soldiers. I experienced it in my dental practice. Some say there is no such thing as doctor-shopping. That is pure nonsense. I have seen it many times in my own life. I have experienced it after a car wreck. I feel strongly that we do not do a good enough job in this country to alleviate pain, and morally and ethically we should. But if we do not deal with this misuse of prescription drugs, we are going to have less pain relief than ever.

I also know that the drugs that relieve the most severe pain can always, almost always, be the most dangerous. They can create a dependency. They can be diverted by the abusers. We have worked very hard to find a way to fight drug abuse without in any way dampening the ability of doctors to treat their patients in severe pain.

In fact, the abuse and diversion of prescription drugs is a growing public health issue for this Nation, and we need to recognize it and understand it.

From major cities to the smallest rural towns, we have had to deal with the consequences of prescription drug abuse. Prescription drugs now rank second only to marijuana in abuse. Think about that. Over 31 million American adults and adolescents have at one time abused pain relievers. Prescription medications are emerging as the drugs of choice for abuse by America’s teenagers. According to a national study released earlier this year, approximately one in five teenagers, that is over 4 million of our sons and daughters, have abused prescription painkillers. Surveys also show that they abuse them because they can, because our healthcare system simply too easy. Mr. Speaker, those numbers are appalling. But there are human faces behind each headline and report of abuse.

Their families and their communities suffer along with those who become addicted.

Those who help divert drugs allow these medications to get into the hands of our children as well as adults who have no medical needs. But physicians have recognized the tremendous benefits State programs in place today are already having, and they have lined up behind our legislation because we could cross State lines.

In an effort address the problem of prescription drug abuse, 21 States have implemented prescription drug monitoring programs. They are in place today. But in our case, if we have one in Georgia, right across the river in South Carolina we cannot deal with it. In a prescription drug monitoring program, pharmacists are required to provide a standard set of information to a State database when dispensing a controlled substance. The administrator of the State database can then alert appropriate authorities if data indicates abuse or diversion.

A doctor or a pharmacist can check that database to see if a patient could be abusing a prescription drug. Think about it. There are other great concepts. The sequence of the confidentiality of, and access to, the information is protected to the best of our ability, and we think it has been done very well. We have worked very hard on that to try to get privacy rights. H.R. 1132 is a bill that would allow the Secretary of Health and Human Services to fund more of these State-monitoring programs. In exchange for Federal funding, the States agree to set up these programs if they do not have them or, if they do have them, improve the ones they already have.

But there must be some basic Federal standards. Border States must also be able to communicate. This closes a serious loophole in States’ current efforts to monitor abuse. If a patient can simply cross a State line to avoid detection, the monitoring system cannot work; or if an abuser is doctor-shopping, as I have seen happen, it is very hard to catch him. Through this bill we are encouraging all the States to get on board with a system that works while respecting States’ rights and people’s privacy.

I ask and encourage all of our colleagues to join us in supporting this very important bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK), on the Committee on Energy and Commerce.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Since 2001, I have been an original co-sponsor of the National All Schedules Prescription Electronic Reporting Act, or NASPER, as we call it; and I rise today in strong support of its passage.

Today, Congress has taken an important first step towards addressing this huge and growing problem by ensuring that all schedule II, schedule III and schedule IV controlled substances are prescribed safely.

The NASPER Act builds on efforts already underway in many States, including my home State of Michigan, to create electronic monitoring systems. The Government Accounting Office, GAO, found in 2002 that these systems help health care providers ensure that patients are not overprescribed powerful, potentially addictive prescription drugs.

The NASPER Act also addresses the problem of people going to other States to circumvent one State’s tracking system. This loophole was also identified by the GAO. The NASPER Act will strengthen the ability of practitioners in other States to contact each other and make sure they are not overprescribing these drugs.

To conclude, Mr. Speaker, this is a good bill. NASPER is more necessary than ever, and now is the time for Congress to pass it and for President Bush to sign it.

Mr. DEAL of Georgia. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. WHITFIELD), who is one of the leaders on the drafting of the House counterpart to this legislation.

Mr. WHITFIELD. Mr. Speaker, I thank the gentleman for giving me this time to give me an opportunity to speak on behalf of H.R. 1132, the National All Schedules Prescription Electronic Reporting Act of 2005.

Mr. Speaker, the gentleman from Georgia (Chairman DEAL) referred to the study at Columbia University noting the increase in abuse of prescription drugs in this country, and I would point out that one of the most disturbing aspects of the report out of Columbia University was the finding that a disturbing number of children between the ages of 12 and 17 are now abusing prescription drugs. So with this legislation today, we have
the opportunity to combat this problem not only with children but also with adults around the country. I would also mention that, and I think someone has already referred to this, that 20 States are already operating similar electronic databases. If we build this legislation we establish a grant program at HHS, but more important than that, we provide some Federal standards on this program with this legislation today. In doing that, we will help foster uniformity and allow for establishing uniform standards on information collection and privacy protections that together will make it easier for States to share information.

I think it is also important to note that the Committee on Appropriations has already been appropriating money for these types of programs. So with this legislation, the Committee on Energy and Commerce, which has exclusive jurisdiction in this area, we now set the stage for this, and I think it will do a tremendous job of improving this program and improving our health care program and giving doctors more information to better treat their patients.

I want to thank particularly Ryan Long, one of the staffers who has worked on this; John Ford of the minority staff; and my personal staffer John Halliwell, and the many others who have worked on this, including Wathan Burke, who actually wrote the legislation over at the legislative counsel’s office.

So after 3 years, I think we are getting ready to move this bill. We know that the Senate is going to take it up in its entirety. And so we look forward to President Bush signing this legislation and improving our health care system.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Pallone), a member of the Health Subcommittee.

Mr. Pallone. Mr. Speaker, I thank the gentleman from Ohio (Mr. Brown) for yielding me time.

I rise in strong support of the National All Schedules Prescription Electronic Reporting Act, or NASPER, legislation which has been mentioned that the gentleman from Kentucky (Mr. Whitfield), the gentleman from Ohio (Mr. Strickland), the gentleman from New Jersey (Mr. Pallone), and the gentleman from Ohio (Mr. Brown).

This critical legislation provides an avenue for addressing the illegal diversion and misuse of prescription drugs. Prescription drug abuse constitutes one of the fastest growing areas of drug abuse in our Nation today, affecting people of all areas of our Nation, all ages, and all income levels. Health care practitioners and pharmacists desperately need electronic prescription drug monitoring systems to ensure that they are only prescribing and dispensing schedule II, III, and IV controlled substances that are medically necessary. This bill provides the resources to States to create and operate State-based drug monitoring programs, allows physicians to access this information, and allows for States to communicate with one another. NASPER would help physicians prevent their patients from becoming addicted to prescription medications and would help law enforcement with criminal investigations in the illicit prescription drug business.

NASPER legislation represents a work of great bipartisan and bicameral effort, and I want to thank the gentleman from Kentucky (Mr. Whitfield), the gentleman from Georgia (Mr. Norwood), the gentleman from Ohio (Mr. Strickland), the gentleman from New Jersey (Mr. Pallone), and the gentleman from Ohio (Mr. Brown), all of these people have been willing to move forward with this effort both here in the House, and it will be taken up in the Senate to alleviate the prescription drug abuse problem plaguing our Nation.

In addition, I applaud the tremendous leadership of the American Society for Interventional Pain Physicians who have worked hard on this significant public health initiative.

Mr. Speaker, I hope my colleagues will join me in supporting this critical measure to help our health care providers begin to stem the burgeoning problems of prescription drug abuse.

Mr. MARKEY of Massachusetts. Mr. Speaker, I rise to express my strong concerns about the lack of adequate patient privacy protections in H.R. 1132—the National All Schedules Prescription Electronic Reporting, NASPER, Act of 2005. As introduced, the bill periodically notify patients whose information in the database has been lost, stolen or used for an unauthorized purpose; a mandate that States inform patients before dispensing controlled substances, such as the patient’s name, address and telephone number.

The abuse of controlled substances such as oxycodone and amphetamines is a serious problem that continues to plague our country. In response to the seriousness of the problem of prescription drug abuse, more than 20 States, including Massachusetts, have taken steps to prevent such abuse through the establishment of reporting requirements on pharmacists and the creation of drug monitoring databases similar to those contemplated by H.R. 1132. In Massachusetts, for example, pharmacies are required to report the prescriptions they fill for substances in Schedules I and II to the State’s department of Public Health.

The problem is that H.R. 1132 does not provide the safeguards that are required to shield patients—the vast majority of whom will be law-abiding citizens receiving medications as part of legitimate plan of care—from unauthorized disclosure of their personal medical information. Instead, the legislation provides States broad leeway to establish databases of patients’ private medical records with little guidance on the privacy protections that must be in place in order to qualify for the grants.

For example, H.R. 1132 permits disclosure of individually-identifiable patient information in the database to a wide range of professionals in addition to practitioners and law enforcement personnel, including any local, State or Federal “narcotics control, licensure, disciplinary or program authority” who can make specific certifications as to the need for access to the information. Any “agent of another state” with a monitoring program approved by the bill could also gain access to patient records in the database, provided that the purpose of the access is for “implementing the state’s controlled substance monitoring program.” Such easy access puts the privacy of potentially hundreds of thousands of law-abiding citizens at risk of unauthorized disclosure.

Additional privacy protections that are missing from H.R. 1132 include: a requirement that States receiving grants under the bill periodically notify patients whose information in the database has been lost, stolen or used for an unauthorized purpose; a mandate that States inform patients before dispensing medications covered by the bill’s reporting requirements; that their name, address, and phone number will be stored in a State-run database, potentially in perpetuity, as a result of the dispensing of the medication; and a requirement that the States purge the database of information about any particular prescription after a limited amount of time.

While I strongly support efforts to prevent the abuse of controlled substances, H.R. 1132 does not contain sufficient guidance to the states on the level of privacy protections that they must provide in the creation and maintenance of the databases authorized under the legislation. Since that breach of 145,000 personal records form the databases of data provider ChoicePoint in February 2005, 50 million records with private information have been leaked from public companies, hospitals, universities and other organizations. Learning from this incident, as a member of the Energy and Commerce Committee, I offered a reasonable amendment to incorporate a fundamental privacy protection in the bill. My amendment was
Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I urge my colleagues to oppose H.R. 1132. That the House of Representatives—

(1) commends United States and coalition forces in liberating people from the repressive regime of Saddam Hussein and their ongoing efforts in support of the freedom and stability of Iraq;

(2) recognizes the progress achieved by the Iraqi people toward the establishment of a representative democratic government, in which all persons, regardless of race or gender, are equal in their rights without regard to sex and are equal before the law;

(3) recognizes the importance of ensuring women in the full participation of Iraqi society and the Iraqi constitution; and

(4) recognizes the commitment and dedication of the United States to ensure that the full rights of women are granted in the Iraqi constitution;

Whereas the central principles of a true democracy, “liberty and justice for all”, “equal justice under law”, and “government of the people, by the people and for the people” apply equally to women;

Whereas in the words of Supreme Court Justice Sandra Day O’Connor: “[s]ociety as a whole benefits immeasurably from a climate in which all persons, regardless of race or gender, may have the opportunity to earn respect, responsibility, advancement and renumeration; and

Whereas the House of Representatives recognizes the commitment and dedication of the United States to ensure that the full rights of women are granted in the Iraqi constitution;

Whereas the House of Representatives recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection; and

Whereas the House of Representatives recognizes the risks Iraqi women have faced in working for the future of their country and admire their consistent commitment to democracy: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends United States and coalition forces in liberating people from the repressive regime of Saddam Hussein and their ongoing efforts in support of the freedom and stability of Iraq;

(2) recognizes the progress achieved by the Iraqi people toward the establishment of a representative democratic government;

(3) recognizes the importance of ensuring women in the full participation of Iraqi society and the Iraqi constitution;

(4) recognizes the commitment and dedication of the Administration to ensuring the full rights of women are granted in the Iraqi constitution;

(5) strongly encourages Iraq’s Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights; and

(6) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq.

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a constitution, was elected to serve as Iraq’s national legislature for a transition period.

Whereas Article 12 of Iraq’s Transitional Administrative Law further states that “[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law”.

Whereas Article 12 of the Transitional Administrative Law further states that “[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited”.

Whereas on May 10, 2005, Iraq’s National Assembly appointed a 55-member committee, composed of Assembly members, to begin drafting a permanent constitution for Iraq.

Whereas in visits with legislators and officials of the Government of the United States, Iraqi women have raised perceived limitations on their rights in a current draft of the Iraqi constitution.

Whereas Saddam Hussein’s brutal regime indiscriminately slaughtered Iraqis, the women among them more vulnerable.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this important resolution. It supports the full participation of Iraqi women in the political, in the economic, and in the social life of a free Iraq on the path to democratic governance.

Today Iraq stands in stark contrast to Iraq under Saddam Hussein. While Saddam Hussein's brutal regime indiscriminately slaughtered Iraqis, the women among them more vulnerable.

The Chair recognizes the gentleman from California (Mr. LANTOS) each will control 20 minutes.

Today Iraq stands in stark contrast to Iraq under Saddam Hussein. While Saddam Hussein’s brutal regime indiscriminately slaughtered Iraqis, the women among them more vulnerable.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.
Recently we saw the fruits of our efforts as countless Iraqi women went to the polls to have their voices heard. The resolution that we are considering here today, Mr. Speaker, highlights the many advances of the status of women in Iraq since Saddam’s deposal, and particularly the fact that women today lead the Iraqi Ministries of Displacement and Migration, Telecommunications, Municipalities and Public Works, Environment, Science and Technology, and Women’s Affairs. However, as with every incipient democracy, particularly in a country that does not have a history of democratic governance to pull from or a regional basis of cooperation or comparison, much more needs to be done. It is, therefore, important for the United States Congress to express support for the Iraqi constitutional process and share the wisdom of our own experience by underscoring the importance of securing equal rights for women in Iraq, of rights for all, as the overall constitutional framework.

This resolution does just that, Mr. Speaker, and I thank my colleagues, the gentlewoman from Texas (Ms. GRANGER) for introducing this important resolution on behalf of our colleagues who have worked on this, and I highlight the assistance of the gentleman from Illinois (Chairman HYDE), the gentleman from California (Ranking Member LANTOS), and the leadership of the gentlewoman from Texas (Ms. ROS-LEHTINEN) for assisting in this very important debate on the Republican side.

Mr. Speaker, we have all read with dismay reports of Iraqi constitutional drafts that diminish and derogate women’s rights to the dictates of clerics and religious law. Our country and the other democratic countries in the coalition have continued to have their men and women fighting for freedom in Iraq cannot now remain silent as some seek to oppose equal rights for women in Iraq.

While the Iraqi people must decide the proper role of religion in their society, we have been disturbed to hear reports that some are proposing that Iraqi law would be governed by the Islamic religious code. A country, Mr. Speaker, can be religious, yet reflect internationally accepted norms.

When the new Afghan Constitution was adopted, although it is far from perfect from a Western perspective, it does prohibit discrimination against any citizen of Afghanistan, including, of course, women. The Afghan Constitution provides that women and men have equal rights before the law. The Afghan Constitution also endorses Afghanistan’s international obligations, that the country’s rights under uniform international standards, all this, Mr. Speaker, in a country that is dramatically more conservative than Iraq.

Now, fortunately, drafts of constitutions are not final text, and I have every faith that the Iraqi people will allow good sense to prevail on this issue before the final text is submitted 2 weeks from now.

Similar issues arose about the role of religion during the drafting of the Transitional Administrative Law in Iraq last year. There was, for example, considerable concern about the prospect that Islamic law would be enshrined as the primary source of Iraqi legislation. In the end, heads prevailed, and the Transitional Administrative Law which emerged was balanced and liberal in nature.

In fact, as the resolution offered by our colleagues from Texas (Ms. GRANGER), points out, the Transitional Administrative Law contains an article ensuring Iraq’s equal rights, prohibiting discrimination, without regard to gender. I have faith that Iraq’s Founding Fathers and Founding Mothers next month will affirm that wisdom from the Transitional Administrative Law.

But I think it is important, Mr. Speaker, that our House of Representatives, speaking on behalf of the American people, affirm that wisdom as well. It is crucial that all Iraqis know that our commitment to their freedom and equality is unwavering and unqualified by religion, race, and gender. That is why I support, Mr. Speaker, this resolution very strongly, and I urge all of my colleagues to do likewise.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 7 minutes to the gentlewoman from Texas (Ms. GRANGER), the author of this resolution.

Mr. GRANGER. Mr. Speaker, I have often had the opportunity to speak on this floor on important issues, but none more important than this, because today I am honored to sponsor this resolution in support of the rights of all Iraqis.

It has been said that a nation reveals its character by the values it upholds. In planting the seed of democracy in the deserts of the Middle East, the United States and our allies hope for a rich harvest of freedom for the people of Iraq. Having removed the dictator, the allies have moved to put Iraqis in control of Iraq. Now, as they draft and ratify their Constitution, we will indeed see the character of a new Iraqi nation revealed through the principles it chooses to uphold.

That is why I urge the Iraqi Transitional National Assembly to create a government worthy of its people, a government that represents every Iraqi from every corner of Iraq, be they Sunni or Shia, rich or poor, male or female.

Human rights are not a privilege granted by the Iraqi government, but are entitlements inalienable and universal, entitled to all, and human rights, by definition, include the rights of all humans, those in the dawn of life, the dusk of life, or the shadows of life.

Mr. Speaker, the women of Iraq have waited long enough. Having faced in the shadows of Saddam Hussein, they are eager for the sunlight of a new nation and a new way of life. I have met these women, and I have felt their courage. I have spoken to them, and, more important, I have listened to them. I have heard more than their words, I have heard their dreams; dreams of a peaceful nation where they can raise their children and make decisions on their own and take part in society.

Mr. Speaker, a free nation must be balanced, a nation where women are equal to men. Just as our Founding Fathers built a new Republic based on life, liberty, and the pursuit of happiness, so, too, the Iraqi nation must choose to uphold the values of human rights for all. Indeed, most Iraqis wish to have an inclusive, balanced nation.

In the run-up to the historic January 30 election, Iraqis insisted that every third name on the ballot had to be that of a woman. The result? Upon election, 31 percent of the Transitional National Assembly’s membership was female, nearly double the membership the U.S. Congress.

By any definition, this would be quite an achievement. But to understand where Iraq’s women are, consider where they have been. To know the horrors of Saddam, look at how Saddam treated the most vulnerable. In Saddam’s Iraq, women were abused and assaulted, beaten and battered, raped and relegated to second-class citizens. In Saddam’s Iraq, women could not own property; they were property.

Truly, Saddam Hussein was a criminal crying out for international intervention. And these are people, the Iraqi women, crying out for freedom.

History will record that Saddam got what he deserved. The question is, will Iraqi women get what they deserve, what they have earned, what they demand?

When I met with 20 of these women just weeks before the January election, they explained that because they were women, they were virtual targets of the people trying to stop the elections, because they were running for office. More than half had had members of their families kidnapped or assassinated. Almost all had to have bodyguards. Many had been in exile for years because of their beliefs, their education, and their choice to have a career. Yet they persevered.

They persevered because they knew their elections were proof that freedom works, and they persevered because they knew that the more women elected, the less the chance of a Saddam-
style policy toward women would ever again come to Iraq.

Proudly, defiantly, and amazingly, these women had the courage of their convictions and changed history. Some of the very women we met with before the election who were so fearful of the outcome and proposed violence led their village walking miles to cast their votes.

Then weeks after that vote, I led another delegation to join 150 Iraqi women who were leaders in their communities and their sects who came to a conference to hear us talk about the principles and practices of democracy.

Women all over Iraq were given the opportunity to apply to be a part of that conference. Do the women of Iraq want democracy? Well, 1,200 of them signed applications hoping to be chosen for this conference. That is right: 1,200 Iraqi women put their names in a document stating who they were and where they lived, that they wanted to learn about democracy from the United States of America.

But while the election of so many Iraqi women last January gives us great hope, recent reports about the drafting of the constitution give us great concerns. With so many reports and rumors, perhaps is best to take inventory of what we know, as well as what we fear.

We know that Islam allows for rights for women, but we fear the interpretation of religious law might unfairly discriminate against women. We know that a policy of equal rights for women in the constitution would safeguard Iraqi women today and for generations to come, but we fear that extremist elements might prevent the passage of such a constitutional protection.

And we note that the surest way to limit the future and the progress of Iraq is to limit the rights and protection of women. But we fear that women may not be allowed even basic rights on matters of marriage, divorce, economic opportunity, or political involvement.

Mr. Speaker, the people of Iraq deserve better and the women of Iraq demand more. Let me be blunt. American troops have come so far, sacrificed so much, persevered so long to see the tyranny of an unlawful dictator replaced by the tyranny of legal oppression for women. A free Iraq must be free for all, that includes women.

A democracy in the Middle East must be more than a democracy in name only; it must live out its principles. Freedom is not something that can be limited or divided or restricted. It applies to women and everyone anywhere and everywhere.

So I put forward this resolution and urge my colleagues not to just stand with me but to stand with the women of Iraq, stand with women everywhere who want the freedom that we fought for and continue to fight for in Iraq.

Those brave women are writing bold new chapters in the story of freedom.

In doing so, they are part of an ever-growing, ever-evolving story.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. TAUSCHER), my good friend and distinguished colleague, coauthor of this resolution.

Mrs. TAUSCHER. Mr. Speaker, I rise to voice my deep concern over the rights of women in Iraq and urge adoption of this resolution. I am very pleased to announce the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Nebraska (Mr. OSBORNE) who are my cochairs in the Iraqi Women's Caucus.

I know they share my unwavering commitment to continuing the success of our efforts to stabilize Iraq. As we speak, the Iraqi Constitution is being drafted, and preliminary drafts are being circulated around Baghdad and in the United States.

This is a critical juncture in the efforts to bring democracy and stability to Iraq. My colleagues and I have spent countless hours in Iraq, in Jordan prior to the January 30 election, meeting with women, Iraqi women, and here in Washington meeting with some of the winners of Iraqi women whose rights are now apparently under attack from extremists in their own country.

The attempts by fundamentalists to insert Sharia, a restrictive form of Islamic law, into the constitution, represents an aggressive and intolerable assault on women's rights. The current transitional administrative law states that Islam is to be considered a source of legislation, but not the only source, and that discrimination against an Iraqi citizen of gender is prohibited.

But current drafts of the new constitution provide legal rights for women as long as they do not violate Islamic law. Many Iraqi women fear, as we do, that enshirning Sharia would sharply curb women's rights in matters such as divorce, family inheritance, travel, professional opportunities, and other areas.

One draft of the constitution also lifted the requirement that at least 25 percent of the Iraqi parliament be women. We cannot allow these drafts to be the final word on August 15. We cannot bring liberty and freedom to only half of Iraq's population, the men. We owe it to the American men and women in uniform who have lost their lives and to the people of Iraq that we do all we can to protect women's rights in that constitution.

Today we have an opportunity to demonstrate that Americans will stand strong in support of Iraqi women and their efforts to fully participate in their new democracy. I urge my colleagues to join me.

Mr. LANTOS. Mr. Speaker, I yield as much time as she might consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me the time and for his extraordinary leadership on human rights for people around the world.

And I know that he joins his voice, his strength, his wisdom in working with the Iraqi Women's Caucus to do absolutely everything to protect the women in Iraq.

Today's USA news report has an article that states that the government may designate Islam Sharia as a main source of legislation in the country according to a draft. This is incredibly troubling that the rights of women may be turned back. It would be a terrible step for the women if their rights are actually restricted under this new constitution.

This resolution which we are sending to the government is tremendously important, and I would like to be associated with the comments on both sides of the aisle.

Just last week, we met with women leaders from Iraq. Two of them were official members of the government, and they said so important.

I would say that any country that protects their women is a stronger country, and Iraq will be a stronger country if women are able to preserve their position. One of the women we met with was a professional, and she had been denied her job.

Under Sharia, women will lose many of the rights that they already have. As one of them said to me, and I quote: "It is horrible. We are concerned. You must do something. The time is now."

August 15 they will be coming forward with the final draft. They will be voting in October, and we must move forward. Just yesterday, along with 40 of my colleagues, I saw the letter from President Bush urging him and the State Department to do everything they possibly can to encourage the drafters of the constitution to include specific rights for women, thereby ensuring their equality and their full participation in the new Iraqi country.

Under the former regime, they were educated, participated in the workforce, and played a role in the government. And since the end of the Saddam Hussein dictatorships, women have served and are serving in the national assembly as cabinet members and in local governments across their country.

I have had the opportunity twice to visit Iraq, to visit our soldiers, to meet with officials, and always to meet with women leaders. They are concerned. They are working hard, and with like-minded men are trying to preserve their role.

They lose their position in the constitution, it will be incredibly difficult to reverse that. So it is critically important, and it would be a tragic irony.
if women now began to lose ground. There might be full participation and equal treatment under the law for women in Iraq, and I know that my colleagues on both sides of the aisle, I hope they will join the Women’s Iraqi Caucus in expressing our strong support and clear writing to the women of Iraq as they fight for the rights to which they are entitled.

I would just like to close that it would be really a tragedy beyond words if women lose their standing in the constitutional arena under the firm guarded protection of a constitution. This is critically important. I urge all of my colleagues to join us in supporting this important resolution.

Mr. Speaker, include the following for the RECORD:

[From USA Today staff and wire reports.]

ONE DRAFT OF IRAQ’S CONSTITUTION MAKES ISLAM MAIN SOURCE

BAGHDAD—Framers of Iraq’s new constitution are considering designating Islam as the main source of legislation in the country, according to a draft published Tuesday in the government newspaper.

The draft, which appeared in the Baghdad newspaper Al-Sabah, further states that no law shall be approved that contradicts “the rules of Islam,” raising worries that the new government will restrict the role of women in society.

The constitution could change significantly, however, before the parliament votes on it Aug. 15.

“There are several drafts of the constitution out there,” U.S. Ambassador Zalmay Khalilzad said in a statement Tuesday.

“I think the draft of the constitution in one of the newspapers today. There are other drafts as well. Now is the time to produce a single draft by the commission,” he said.

The draft published Tuesday seems to reflect the views of conservative members of the constitution committee.

“Islam is the official religion of the state and is the main source of legislation,” the draft reads. “No law that contradicts with its rule is approved.”

The document also grants the Shiites Arab religious leadership in the holy city of Najaf “independence for its guiding role” in recognition of its “high national and religious symbolism.”

In Washington, 41 members of the House of Representatives wrote a letter to President Bush urging him to support provisions in the constitution that would protect women’s rights. “It would be a terrible step backward for the women of Iraq if their rights are actually undermined under the new constitution,” said Rep. Carolyn Maloney, D-N.Y., in a press release.

The letter points out that the constitution would replace the transitional administrative law, which provides for equal treatment under the law and set a requirement that 25% of the seats in the National Assembly go to women.

During the U.S.-run occupation, which ended June 28, 2004, key Shiite and some Sunni politicians sought to have Islam designated as the main source of legislation in the interim constitution, which went into effect in March 2004.

However, U.S. Administrator Paul Bremer blocked the move. He said that Islam would be considered “a source”—but not the only one. At the time, prominent Shiite politicians began a public battle with Bremer and raise the issue again during the drafting of the permanent constitution.

The drafting committee met Tuesday to discuss federalism, another contentious issue, according to Sunni Arab member Mohammed Abed-Rabbou.

He described the discussion as “heated” and said no agreement was reached.

Parliament speaker Hajim al-Hassani urged Iraqis to stop publishing supposed texts unless they were released by the constitutional committee.

The Sunnis on the committee agreed only Monday to resume work on the committee, after they walked out to protest the assassination of two of their colleagues this month.

CONGRESS OF THE UNITED STATES,
Washington, DC, July 25, 2005,
Hon. George W. Bush,
President,
Pennsylvania Avenue, NW., Washington, DC.
DEAR MR. PRESIDENT: We are writing to express our concern with the Iraqi constitution currently being drafted by members of a constitutional drafting committee, and our support for provisions that we hope will be included to guarantee the rights of Iraqi women.

As you know, the National Assembly is scheduled to approve a draft constitution by August 15, 2005, which will be voted on October 15, 2005. This constitution will replace the Transitional Administrative Law (TAL) which provides for equality of all Iraqis regardless of their religion or sex, while providing women with 25% of the seats in the transitional assembly. We strongly believe that Iraqi women must have every opportunity to participate in all levels of government so that they can ensure that any laws passed by the Iraqi government will not take away their rights or relegate them to second-class status.

It is our understanding that the current draft of the constitution contains provisions, such as equal rights for women unless those rights contradict Shari’a law, that would weaken language contained in the TAL. Additionally, we understand that the draft would phase out the 25% requirement of parliamentary seats that must be held by women. Iraqi women are playing a critical role in the future of Iraq after the end of Saddam Hussein’s tyranny. They should not be deprived of their opportunity by those who seek to have the rights of women stripped away.

Therefore, we respectfully request that you do all that you can to demonstrate the United States’ support for equality for all Iraqis regardless of gender, and help the Iraqi people as they continue to establish a new society and government that recognizes the rights of all Iraqi citizens. Iraqi women admirably have served in all levels of government in the National Assembly as well as Cabinet Ministers as the private sector. We must continue to show our strong support for Iraqi women as they fight for equality.

Thank you for your attention in this matter. We look forward to your reply.

Sincerely,

Mrs. ROSS-LEHTINEN, Mr. Speaker, I yield to the gentleman from Nebraska (Mr. OSBORNE), who has been a true leader on Iraq issues, on democratic governance, on women’s issues in Iraq.

Mr. OSBORNE, Mr. Speaker, H. Res. 383 encourages the transitional assembly of Iraq to adopt a constitution that grants women equal rights. It was authored by the gentleman from Texas (Ms. GRANGER) and also the gentlewoman from California (Mrs. TAUCNER) and myself, who are co-chairs of the Iraqi Women’s Caucus.

Mr. Speaker, I would like to say just a word about the Iraqi Women’s Caucus. This was formed a couple of years ago by former Representative Jennifer Dunn and myself, with the belief that Iraqi women are critical to holding the social fabric of Iraq together and bringing Sunni and Shiites together.

And as we have talked to them, we found that this is the case, that this is true. While they are distinguished, they are currently divided. Sunnis are married to Shiites and they have other sects within their families. And they consistently tell us that the divisions are not what people think in the United States.

But we think that women are the key and probably as important as guns and bullets and tanks and helicopters to achieving a peaceful resolution in Iraq. Some of us visited Jordan in March. And we met with 150 Iraqi women near the Dead Sea. These women drove from many points within Iraq. Two groups were shot at on the way, which shows you the resolution that they had, because they continued on their journey.

We visited with many women’s groups from Iraq, in the United States and Iraq, as we have traveled. I visited with prime minister al-Jaafari in Iraq in March. And I asked him this question: I said, will you give Iraqi women a prominent role in the government? And the answer that he gave me was, yes, that he would do that, that he would ensure that.

So as many people are aware, one-third of the 275 seats in the transitional national assembly have been given to women, which is a very good thing. But on May 15, only 55 members of the national assembly were chosen to draft a permanent constitution for Iraq by August 15.

Of that 55, approximately 10 or 11 were women, which again does not sound too bad. But as we met with Iraqi women last week, they said the women that were chosen were among the most conservative, among the most fundamentalist group within the national assembly, and therefore they were really concerned about what was happening in regards to the church and the state.

And so as everyone knows, Sharia is Islamic law, and this was what was written in a draft of the constitution.
that was given to us by these women. And in the eighth article this is what it says: “The government vouches for women’s duties toward family and their work in the society, equalizing her to men in all political, educational, social and economic fields.” So far so good.

All sounds good. But then there is this last phrase, without infracting Islam, which means that whatever rights a women has cannot be in contradiction to Islamic law. This was the thing that concerned these women so much.

As was mentioned earlier, one of those women who came here was a judge, who had been installed on the court, but was removed from her judgeship because of Sharia.

There is great concern at this point. So this resolution urges Iraqi leaders to accord Iraqi women equal rights under the Constitution.

Let me just close, Mr. Speaker, by saying this: Iraqi women as we meet with them are really concerned about security. We do not want to minimize that. We pretend that pretend that Iraq is a real safe place. They are really concerned about the infrastructure, and there are some problems in the infrastructure. But when asked if they would prefer life under Saddam or if they prefer death and in spite of controlling nearly two-thirds of the world’s oil, they still have a collective domestic product only equal to Spain’s.

The message is clear, when you cut out half of your populace, you are not going to prosper and grow. So it is in the self-interest of every man and woman in Iraq to make sure women have an equal role in the activities of their country.

When I met with Iraqi women in Amman and in Baghdad, and met with men and women who were participating in their constitutional convention, it was clear they feel like they are the Jeffersons and the Madisons and the Adamses and the Franklin and the Shermans. They know they have this unbelievable opportunity to shape a great nation.

It is right for our country to encourage them to do the right thing, to tell them that we believe in them. But in the end, it is their country and they will decide what is in their best interest.

They are going to decide, but if they want to succeed, and Lord knows we want them to, they need to make sure that along with guaranteeing majority rule and minority rights, right along with that there is the very real need to guarantee women are not only protected as equal but have an active role in their government.

Last June when the President demanded we transfer power to the Iraqis, there were many who did not agree with him. We took this American face and transferred it to Iraq. And Iraqis began to be in charge of their own country. They had their election process and ultimately decided that every third name on each list would be a woman’s name. As a result, 31 percent of those elected to the Transnational Assembly of Iraq are women. These elected women are participating in the writing of the constitution which has a deadline of completion of August 15.

But the women of Iraq continue to face obstacles. A current hurdle is whether or not equal rights for women are included in the Iraqi Constitution. Their inclusion or omission will determine the future of Iraqi women’s rights under the law, status in society, and role in the government. Iraqi women understand this and want their rights clearly defined in the constitution. They realize that unless their rights are firmly established, their future is not ensured and it will be far too easy to strip away these rights. Women constitute 60 percent of the Iraqi population. Leaving the majority of Iraqis out of the Constitution will not only prove detrimental to Iraqi women, but to the future health and prosperity of Iraqi society.
I urge my colleagues to support this resolution, and I strongly encourage the Transnational Assembly of Iraq to grant women equal rights under the law.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 383.

The question was taken. The SPEAKER pro tempore. Pursuant to clause XX and the Chair’s prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. BARTON of Texas (during consideration of H.R. 383) submitted the following conference report and statement on the bill (H.R. 6), an act to ensure jobs for our future with secure, affordable, and reliable energy:

CONFERENCE REPORT (H. Rept. 109-190)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6), to ensure jobs for our future with secure, affordable, and reliable energy, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreeing votes on the amendment of the Senate to the bill (H.R. 6), to ensure jobs for our future with secure, affordable, and reliable energy.

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This Act may be cited as the “Energy Policy Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 105. Energy savings performance contracts.
Sec. 106. Voluntary commitments to reduce industrial energy intensity.
Sec. 107. Advanced Building Efficiency Testbed.
Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
Sec. 110. Daylight savings.
Sec. 111. Enhancing energy efficiency in management of Federal lands.

Subtitle B—Energy Assistance and State Programs

Sec. 121. Low income home energy assistance program.
Sec. 122. Weatherization assistance.

Sec. 123. State energy programs.
Sec. 124. Energy efficient appliance rebate programs.
Sec. 125. Energy efficient public buildings.
Sec. 126. Low income community energy efficiency pilot program.
Sec. 127. State Technologies Advancement Collaboratives.
Sec. 128. State baseline energy efficiency codes incentives.

Subtitle C—Energy Efficient Products

Sec. 131. Energy Star program.
Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Public education program.
Sec. 134. Energy efficiency public information initiative.
Sec. 135. Energy conservation standards for additional products.
Sec. 136. Energy conservation standards for commercial equipment.
Sec. 137. Energy labeling.
Sec. 138. Intermittent escalator study.
Sec. 139. Energy efficient electric and natural gas utilities study.

Sec. 140. Energy conservation program.
Sec. 141. Report on failure to comply with deadlines for new or revised energy conservation standards.

Subtitle D—Public Housing

Sec. 151. Public housing capital fund.
Sec. 152. Energy efficient appliances.
Sec. 153. Energy efficiency standards.
Sec. 154. Energy strategy for HUD.

TITILE II—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 201. Assessment of renewable energy resources.
Sec. 202. Renewable energy production incentive.
Sec. 203. Federal purchase requirement.
Sec. 204. Use of photovoltaic energy in public buildings.
Sec. 205. Biobased products.
Sec. 206. Renewable energy security.
Sec. 207. Installation of photovoltaic system.
Sec. 208. Sugar cane ethanol program.
Sec. 209. Rural and remote community electrification grants.
Sec. 210. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial applications.
Sec. 211. Sense of Congress regarding generation capacity of electricity from renewable energy resources on public lands.

Subtitle B—Geothermal Energy

Sec. 221. Short title.
Sec. 222. Competitive lease sale requirements.
Sec. 223. Direct use.
Sec. 224. Royalties and near-term production incentives.
Sec. 225. Coordination of geothermal leasing and permitting on Federal lands.
Sec. 226. Assessment of geothermal energy potential.
Sec. 227. Cooperative or unit plans.
Sec. 228. Royalty on byproducts.
Sec. 229. Authority of Secretary to readjust terms, conditions, rentals, and royalties.

Subtitle C—Hydroelectric

Sec. 241. Alternative conditions and fishways.
Sec. 242. Hydroelectric production incentives.
Sec. 243. Hydroelectric efficiency improvement.
Sec. 244. Alaska State fisheries protection over small hydroelectric projects.
Sec. 245. Flint Creek hydroelectric project.
Sec. 246. Small hydroelectric power projects.

Subtitle D—Insular Energy

Sec. 251. Insular areas energy security.
Sec. 252. Projects enhancing insular energy independence.

TITILE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 303. Site selection.

Subtitle B—Natural Gas

Sec. 311. Exportation or importation of natural gas.

Subtitle C—Production

Sec. 322. Federal and state participation in exploration and development.
Sec. 323. Oil and gas exploration and production defined.

Subtitle D—Naval Petroleum Reserve

Sec. 331. Transfer of administrative jurisdiction and management responsibility, Naval Petroleum Reserve Numbered 2, Kern County, California.
Sec. 332. Naval Petroleum Reserve Numbered 2 Lease Revenue Account.
Sec. 333. Land conveyance, portion of Naval Petroleum Reserve Numbered 2, to City of Taft, California.
Sec. 334. Revocation of land withdrawal.

Subtitle E—Production Incentives

Sec. 341. Definition of Secretary.
Sec. 342. Program on oil and gas royalties in-kind.
Sec. 343. Marginal property production incentives.

Subtitle F—Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 345. Royalty relief for deep water production.
Sec. 346. Alaska offshore royalty suspension.
Sec. 347. Oil and gas leasing in the National Petroleum Reserve in Alaska.
Sec. 348. North Slope Science Initiative.
Sec. 349. Orphaned, abandoned, or idle wells on Federal land.
Sec. 350. Combined hydrocarbon leasing.
Sec. 351. Preservation of geological and geophysical data.
Sec. 352. Oil and gas lease acreage limitations.
Sec. 353. Gas hydrate production incentive.
Sec. 354. Enhanced oil and natural gas production through carbon dioxide injection.
Sec. 355. Assessment of dependence of State of Hawaii on oil.
Sec. 356. Denali Commission.
Sec. 357. Comprehensive inventory of OCS oil and natural gas resources.

Subtitle G—Access to Federal Lands

Sec. 361. Federal onshore oil and gas leasing programs.
Sec. 1306. Credit for production from advanced nuclear power facilities.

Sec. 1307. Credit for investment in clean coal facilities.

Sec. 1308. Electric transmission property treated as 15-year property.

Sec. 1309. Expansion of amortization for certain atmospheric pollution control facilities in connection with plants first placed in service after 1975.

Sec. 1310. Modifications to special rules for nuclear decommissioning costs.

Sec. 1311. 5-year net operating loss carryover for certain losses.

Subtitle B—Domestic Fossil Fuel Security

Sec. 1321. Extension of credit for producing fuel from a nonconventional source for facilities producing coke or coke gas.

Sec. 1322. Modification of credit for producing fuel from a nonconventional source.

Sec. 1323. Temporary expensing for equipment used in refining of liquid fuels.

Sec. 1324. Pass through to owners of deduction for capital costs incurred by small refiner cooperatives in complying with Environmental Protection Agency sulfur regulations.

Sec. 1325. Natural gas distribution lines treated as 15-year property.

Sec. 1326. Natural gas gathering lines treated as 15-year property.

Sec. 1327. Arbitrage rules not to apply to pre-payments for natural gas.

Sec. 1328. Determination of small refiner exceptions to oil depletion deductions.

Sec. 1329. Amortization of geological and geophysical expenditures.


Sec. 1331. Energy efficient commercial buildings deduction.

Sec. 1332. Credit for construction of new energy efficient homes.

Sec. 1333. Credit for certain nonbusiness energy property.

Sec. 1334. Credit for energy efficient appliances.

Sec. 1335. Credit for residential energy efficient property.

Sec. 1336. Credit for business installation of qualified fuel cells and stationary microturbine power plants.

Sec. 1337. Business solar investment tax credit.

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

Sec. 1341. Alternative motor vehicle credit.

Sec. 1342. Credit for year installation of alternative fueling stations.

Sec. 1343. Reduced motor fuel excise tax on certain mixtures of diesel fuel.

Sec. 1344. Extension of excise tax provisions and income tax credit for bio-diesel.

Sec. 1345. Small agri-biodiesel producer credit.

Sec. 1346. Renewable diesel.

Sec. 1347. Modification of small ethanol producer credit.

Sec. 1348. Sunset of deduction for clean-fuel vehicles and certain refueling property.

Subtitle E—Additional Energy Tax Incentives

Sec. 1351. Expansion of research credit.

Sec. 1352. National Academy of Sciences study and report.

Sec. 1353. Recycling study.

Subtitle F—Revenue Raising Provisions

Sec. 1361. Oil Spill Liability Trust Fund financing rate.

Sec. 1362. Extension of Leaking Underground Storage Tank Trust Fund financing rate.

Sec. 1363. Modification of recapture rules for amortizable section 197 intangibles.

Sec. 1364. Clarification of tire excise tax.

TITLE XIV—MICHEWSEOUS

Subtitle A—In General

Sec. 1401. Sense of Congress on risk assessments.

Sec. 1402. Energy production incentives.

Sec. 1403. Regulations of certain oil used in transformers.

Sec. 1404. Petrochemical and oil refinery facility health assessment.

Sec. 1405. National Strategic Priority Project Designation.

Sec. 1406. Cold cracking.

Sec. 1407. Oxygenated fuel.

Subtitle B—Set America Free

Sec. 1421. Short title.

Sec. 1422. Purpose.


Sec. 1424. North American energy freedom policy.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

Sec. 1501. Renewable content of gasoline.

Sec. 1502. Renewable diesel.

Sec. 1503. Claims filed after enactment.

Sec. 1504. Elimination of oxygen content requirement for reformulated gasoline.

Sec. 1505. Public health and environmental impacts of fuels and fuel additives.

Sec. 1506. Analysis of motor vehicle fuel changes.

Sec. 1507. Additional opt-in areas under reformulated gasoline program.

Sec. 1508. Date of compliance.

Sec. 1509. Fuel system requirements harmonization study.

Sec. 1510. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program.

Sec. 1511. Renewable fuel.

Sec. 1512. Conversion assistance for cellulosic biomass, waste-derived ethanol, approved renewable fuels.

Sec. 1513. Blending of compliant reformulated gasolines.

Sec. 1514. Advanced biofuel technologies program.

Sec. 1515. Waste-derived ethanol and biodiesel.

Sec. 1516. Renewable fuel loan guarantee program.

Subtitle B—Underground Storage Tank Compliance

Sec. 1521. Short title.

Sec. 1522. Leaking underground storage tanks.

Sec. 1523. Inspection of underground storage tanks.

Sec. 1524. Operation and training.

Sec. 1525. Remediation from oxygenated fuel additives.

Sec. 1526. Release prevention, compliance, and enforcement.

Sec. 1527. Delivery prohibition.

Sec. 1528. Federal facilities.

Sec. 1529. Tanks on tribal lands.

Sec. 1530. Additional measures to protect groundwater.

Sec. 1531. Authorization of appropriations.

Sec. 1532. Conforming amendments.

Sec. 1533. Technical amendments.

Subtitle C—Boutique Fuels

Sec. 1541. Reducing the proliferation of boutique fuels.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

Sec. 1601. Greenhouse gas intensity reducing technology strategies.

Subtitle B—Climate Change Technology Deployment in Developing Countries

Sec. 1611. Climate change technology deployment in developing countries.

TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

Sec. 1701. Definitions.
1 or more organizations referred to in subpara-
graph (A); and
(ii) is operated, supervised, or controlled by
in connection with 1 or more of those organiza-
tions.
(3) NATIONAL LABORATORY.—The term "Na-
tional Laboratory" means any of the following
laboratories owned by the Department:
(A) Idaho National Laboratory.
(B) Argonne National Laboratory.
(C) Brookhaven National Laboratory.
(D) Glenn Research Center Laboratory.
(E) Idaho National Laboratory.
(F) Lawrence Berkeley National Laboratory.
(G) Lawrence Livermore National Laboratory.
(H) Los Alamos National Laboratory.
(I) National Energy Technology Laboratory.
(J) National Renewable Energy Laboratory.
(K) Oak Ridge National Laboratory.
(L) Pacific Northwest National Laboratory.
(M) Princeton Plasma Physics Laboratory.
(N) Sandia National Laboratories.
(O) Savannah River National Laboratory.
(P) Stanford Linear Accelerator Center.
(Q) Thomas Jefferson National Accelerator
Facility.
(4) SECRETARY.—The term "Secretary" means
the Secretary of Energy.
(5) SMALL BUSINESS CONCERN.—The term "small
business concern" has the meaning given in
connection with 1 or more of those organiza-
tions.
Subtitle A—Federal Programs
SEC. 101. ENERGY AND WATER SAVING MEASURES
IN CONGRESSIONAL BUILDINGS
(a) IN GENERAL.—Part 3 of title V of the Na-
tional Energy Conservation Policy Act (42
U.S.C. 8251 et seq.) is amended by adding at the
end the following:
"SEC. 552. ENERGY AND WATER SAVING MEAS-
URES IN CONGRESSIONAL BUILD-
INGS.
"(a) IN GENERAL.—The Architect of the Cap-
tol—
"(1) shall develop, update, and implement a
cost-effective energy conservation and manage-
ment plan (referred to in this section as the
"plan") for all facilities administered by Congress
(referred to in this section as ‘‘congressional
buildings’’) to meet the energy performance re-
quirements for Federal buildings established
under section 543(a)(1); and
"(2) shall submit the plan to Congress, not
later than 180 days after the date of enactment
of this section.

"(b) PLAN REQUIREMENTS.—The plan shall in-
clude—
"(1) a description of the life cycle cost anal-
ysis used to determine the cost-effectiveness of
proposed energy efficiency projects;
"(2) 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 mea-
ures;
"(3) a strategy for installation of life cycle
cost-effective energy and water conservation
measures;
"(4) the results of a study of the costs and
benefits of installation of submetering in con-
gressional buildings; and
"(5) information packages and ‘‘how-to’’ guides
for each agency, in determining authority of Congress
to detail simple, cost-effective meth-
ods to save energy and taxpayer dollars in the
workplace.

"(c) ANNUAL REPORT.—The Architect of the
Capitol shall submit to Congress annually a re-
port on congressional energy management and
conservation programs required under this sec-
tion that is presented in the following:
"(1) energy expenditures and savings esti-
mates for each facility;
"(2) energy management and conservation pro-
grams, and
"(3) future priorities to ensure compliance
with this section.

"(b) TABLE OF CONTENTS AMENDMENT.—The
table of contents of the National Energy Con-
servation Policy Act is amended by adding at the
end of the items relating to part 3 of title V the
following:
"Sec. 552. Energy and water savings measures
in congressional buildings.

"(c) REPEAL.—Section 310 of the Legislative
Branch Appropriations Act, 1999 (2 U.S.C. 1815),
is repealed.

"SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—
"(1) AMENDMENT.—Section 543(a)(1) of the Na-
tional Energy Conservation Policy Act (42
U.S.C. 8253(a)(1)) is amended by striking ‘‘its
Federal buildings so that’’ and all that follows
through the end and inserting ‘‘the Federal
buildings that (including each indus-
trial or laboratory facility) so that the energy
consumption per gross square foot of the Federal
buildings of the agency in fiscal years 2006
through 2015 is reduced, as compared with the
energy consumption per gross square foot of the
Federal buildings of the agency in fiscal year
2003, by the percentage specified in the fol-
lowing table:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Percentage reduction</th>
</tr>
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<tbody>
<tr>
<td>2006</td>
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<tr>
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<td>4</td>
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<tr>
<td>2014</td>
<td>18</td>
</tr>
<tr>
<td>2015</td>
<td>20</td>
</tr>
</tbody>
</table>

"(2) REPORTING BASELINE.—The energy reduc-
tion goals and baseline established in paragraph
(1) of section 543(a) of the National Energy Con-
servation Policy Act (42 U.S.C. 8253(a)), as
amended by this subsection, supersede all pre-
vious goals and baselines under such para-
graph, and related reporting requirements.

"(b) REVIEW AND REVISION OF ENERGY PER-
FORMANCE REQUIREMENT.—Section 543(a) of the
National Energy Conservation Policy Act (42
U.S.C. 8253(a)) is further amended by adding at the
end the following:

"(1) Not later than December 31, 2014, the Sec-
etary shall review the results of the implemen-
tation of the energy performance requirement
stated under paragraph (1) and submit to Congress
recommendations concerning energy performance
requirements for fiscal years 2016 through 2025.

"(c) EXCLUSIONS.—Section 543(c)(1) of the Na-
tional Energy Conservation Policy Act (42
U.S.C. 8253(c)(1)) is amended in the second
sentence by striking ‘‘an agency may exclu-
de from the performance require-
mament under sub-
paragraph (b), any Federal building or collection of
Federal buildings, if the head of the agency finds that—
'(i) compliance with those requirements would
be impracticable;
'(ii) the agency has completed and submitted
all federally required energy management re-
ports,
'(iii) the agency has achieved compliance
with the energy efficiency requirements of this
Act, the Energy Policy Act of 1992, Executive
orders, and other Federal law; and
'(iv) the agency has implemented all prac-
ticable, life cycle cost-effective projects with re-
spect to the Federal building or collection of
Federal buildings to be excluded.

"(b) A finding of impracticability under sub-
paragraph (A)(ii) shall be based on—
'(i) the energy efficiency of activities car-
ried out in the Federal building or collection of
Federal buildings;
'(ii) the data that the Federal building or col-
lection of Federal buildings is used in the per-
formance of a national security function.

"(d) REVIEW BY SECRETARY.—Section 543(c)(2)
of the National Energy Conservation Policy Act
(42 U.S.C. 8253(c)(2)) is amended—
'(1) by striking ‘‘impracticability standards’’ and
inserting ‘‘standards for exclusion’’;
'(2) by striking ‘‘a finding of impracticability’’ and
inserting ‘‘the exclusion’’; and
'(3) by striking ‘‘energy consumption require-
ments’’ and inserting ‘‘requirements of sub-
sections (a) and (b)(1)’’.

"(e) CRITERIA.—Section 543(c) of the National
Energy Conservation Policy Act (42 U.S.C. 8253(c))
is further amended by adding at the end the fol-
lowing:

"(2) Not later than 180 days after the date of en-
actment of this paragraph, the Secretary shall
issue guidelines that establish criteria for exclu-
sions under paragraph (1).

"(f) RETENTION OF ENERGY AND WATER SAV-
INGS.—Section 546 of the National Energy Con-
servation Policy Act (42 U.S.C. 8256) is amended by
adding at the end the following new sub-
section:

"(6) RETENTION OF ENERGY AND WATER SAV-
INGS.—An agency may retain any funds appro-
priated to that agency for energy expenditures,
water expenditures, or wastewater treatment ex-
penditures, at buildings subject to the require-
ments of section 546(b) that were not made
because of energy savings or water sav-
ings. Except as otherwise provided by law, such
funds may be used only for energy efficiency,
water conservation, or unconsumed and re-
newable energy resources projects. Such projects
shall be subject to the requirements of section
3307 of title 40, United States Code.

"(g) REPORTS.—Section 548(b) of the National
Energy Conservation Policy Act (42
U.S.C. 8258(b)) is amended—
'(1) in the subsection heading, by inserting
‘‘This SUBSECTION AND’’ before ‘‘Con-
gress’’;
'(2) by inserting ‘‘President and’’ before ‘‘Con-
gress’’.

"(h) CONFORMING AMENDMENT.—Section 550(d)
of the National Energy Conservation Policy Act
(42 U.S.C. 8258(d)) is amended in the second
sentence by striking ‘‘the 20 percent reduction
goal established under section 543(a) of the Na-
tional Energy Conservation Policy Act (42
U.S.C. 8253(a)).’’ and inserting ‘‘each of the
energy reduction goals established under section
543(a).’’

SEC. 103. ENERGY USE MEASUREMENT AND AC-
COUNTABILITY.

Section 543 of the National Energy Conserva-
tion Policy Act (42 U.S.C. 8253) is further amended
by adding at the end the following:

"(6) METERING OF ENERGY USE.—
'(1) DEADLINE.—By October 1, 2012, in ac-
cordance with guidelines established by the Sec-
retary, each agency shall install energy use
buildings, for the purposes of efficient use of
energy and reduction in the cost of electricity
used in such buildings, be metered. Each agency
shall, to the maximum extent practicable, advance
meters or advanced metering devices
that provide data at least daily and that
measure at least hourly consumption of electricity in
the Federal buildings. Such data shall be incor-
porated into existing Federal energy
tracking systems and made available to
Federal facility managers.

"(2) GUIDELINES.—
'(A) IN GENERAL.—Not later than 180 days
after the date of enactment of this subsection,
the Secretary, in consultation with the Depart-
ment of Defense, the General Services Adminis-
tration, representatives from the metering indus-
try, utility industry, energy services industry,
energy efficiency industry, energy efficiency ad-
vocates organizations, national laboratories,
universities, and Federal facility managers,
shall establish guidelines for agencies to carry out
paragraph (1).

"(i) REQUIREMENTS FOR GUIDELINES.—The
guidelines shall—
'(i) take into consideration—
“(1) the cost of metering and the reduced cost of operation and maintenance expected to result from metering;

“(2) the extent to which metering is expected to result in energy savings; and

“(3) the measurement and verification protocols of the Department of Energy;

“(ii) include recommendations concerning the amount of energy savings that could be achieved by the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

“(iii) includes types and locations of buildings to be metered based on cost-effectiveness and a schedule of 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

“(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

“(3) PLAN.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including any training for personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation of any findings from meters or additional metering devices, as defined in paragraph (1), are not practicable.”

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended at the end of the section by adding the following:

“SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ has the meaning given that term in section 7902(a) of title 5, United States Code.

“(2) ENERGY STAR PRODUCT.—The term ‘Energy Star product’ means a product that is rated for energy efficiency under an Energy Star program.

“(3) ENERGY STAR PROGRAM.—The term ‘Energy Star program’ means the program established under section 324A of the Energy Policy and Conservation Act.

“(4) FEMP DESIGNATED PRODUCT.—The term ‘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.

“(5) PRODUCT.—The term ‘product’ does not include any energy consuming product or system designed or procured for combat or combat-related missions.

“(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

“(1) REQUIREMENT.—To meet the requirements of an agency for an energy consuming product, the head of the 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 agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that:

“(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

“(B) an Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

“(2) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guidelines on specification and design; construction, renovation, and services contracts that include provision of 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.

“(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer’s needs. The applicable Federal Energy Management Program or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

“(d) SPECIFIC PRODUCTS.—(1) In the case of electric motor of 1 to 500 horsepower, agencies shall include Energy Star or FEMP designated motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

“(2) All Federal agencies are encouraged to take into consideration the energy efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

“(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

“(B) determined by the Administrator of the Environmental Protection Agency to be environmentally sound;

“(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology in the Department of Commerce; and

“(D) demonstrate that the use of the equipment or component reduces average energy consumption by not less than 5 percent.

“(e) REQUIREMENTS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.

“(f) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended further by inserting after the item relating to section 552 the following new item:

“Sec. 553. Federal procurement of energy efficient products.”

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking “2006” and inserting “2016.”

(b) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be considered to have been entered into under section 801(c) of the National Energy Conservation Policy Act for purposes of subsection (a).

SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) DEFINITION OF ENERGY INTENSITY.—In this section, the term ‘energy intensity’ means the primary energy consumed for each unit of physical output in an industrial process.

(b) VOLUNTARY AGREEMENTS.—The Secretary may enter into voluntary agreements with 1 or more persons in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the persons.

(c) GOAL.—Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) RECOGNITION.—The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

SEC. 107. ADVANCED BUILDING EFFICIENCY TESTED.

(a) ESTABLISHMENT.—The Secretary shall establish the Efficiency Tested program for the development, testing, and demonstration of advanced engineering systems, components, and materials to ensure their usefulness in buildings. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and corporate productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the expertise of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year for which funds are appropriated for this section, the Secretary shall provide 5% of the total amount to the lead university described in
(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"(4) RECOVERY OF MINERAL COMPONENT—In federally funded projects involving procurement of cement or concrete—

"(A) the Secretary of Transportation; and

"(B) any other Federal agency that, in the course of its procuring or providing Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(b) CEMENT OR CONCRETE PROJECT.—The term ‘cement or concrete project’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or other public 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.

(c) RECOVERED MINERAL COMPONENT.—The term ‘recovered mineral component’ means—

"(1) a co-substituted blast furnace slag, excluding lead slag;

"(2) coal combustion fly ash; and

"(3) 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 mineral component for this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(d) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each 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 section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving increased substitution of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

Text continues...
fuels in providing assistance under the Low-Income Home Energy Assistance Act of 1983 (42 U.S.C. 8621 et seq.).

SEC. 122. WEATHERIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 362 of the Conservation and Production Act (42 U.S.C. 6872) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary” and inserting “$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008”.

(b) ELIGIBILITY.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6827(t)) is amended by striking “125 percent” both places it appears and inserting “150 percent”.

SEC. 123. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

“(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 such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities for regional efforts to carry out in pursuit of common energy conservation goals.”

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

“STATE ENERGY EFFICIENCY GOALS

“Sec. 364. Each State energy conservation plan that is approved shall provide a financial incentive or other assistance to make available under this part or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the average energy efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1999, and may contain interim goals.”

(c) AUTHORIZATION OF APPROPRIATIONS.—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 “$100,000,000 for each of the fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008”.

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term “eligible State” means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term “Energy Star program” means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term “residential Energy Star product” means a product 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 administering the State energy conservation program under the State energy office.

(5) STATE PROGRAM.—The term “State program” means a State energy efficiency appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—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 may require;

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year in which the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount allocated under this paragraph by the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in the preceding calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be equal to $500,000,000 so that no eligible State is allocated a sum that is less than the amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State under subsection (b) may be used to pay up to 30 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration

(1) the amount of the allocation to the State energy office under subsection (b);

(2) the amount of 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 capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section $50,000,000 for each of the fiscal years 2006 through 2010.

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

(b) PURPOSE OF GRANTS.—The Secretary may make grants 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 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.), that is recognized as eligible for the special programs and services provided by the United States for Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 127. STATE TECHNOLOGIES ADVANCEMENT COLLABORATIVE.

(a) IN GENERAL.—The Secretary, in cooperation with the States, shall establish a collaborative for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the “State Technologies Advancement Collaborative” (referred to in this section as the “Collaborative”).

(b) DUTIES.—The Collaborative shall—

(1) leverage Federal and State funding through cost-shared activity;

(2) reduce redundancies in Federal and State funding; and

(3) create multistate projects to be awarded through a competitive process.

(c) FUNDING SOURCES.—Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative; or

(2) amounts that may be allocated from other appropriations without changing the purpose for which the amounts are appropriated.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Collaborative such sums as are necessary for each of fiscal years 2006 through 2010.

SEC. 128. STATE BUILDING ENERGY EFFICIENCY CODES INCENTIVES.

(a) GRANTS.—The Secretary is authorized to make grants to units of local government, pri-
“(A) to a State that has adopted and is implementing, on a statewide basis—

(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A); and

(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1-2004, or any succeeding version of that standard, that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

(B) in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

(3) Of the amounts made available under this subsection, the Secretary may use $500,000 for each of fiscal years 2010 and 2011 and such sums as are necessary for fiscal year 2012 and each fiscal year thereafter.

(ii) Funding provided to States under paragraph (2) for each fiscal year shall not exceed 25% of the amount provided under this subsection over $5,000,000 for the fiscal year.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) In General.—The Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:

“ENERGY STAR PROGRAM.

“SEC. 324A. Energy Star program.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended by adding at the end the following:

“SEC. 324A. Energy Star program.

(c) DUTIES.

(1) The Administrator of the Small Business Administration, in consultation with the Environmental Protection Agency and the Department of Agriculture, and the Administrator of the Small Business Administration and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities representing all aspects of energy technologies and products; and

(3) The Secretary shall design the scope and structure of the program under subsection (b) to address any major contribution to energy conservation standards.

(4) The Secretary shall provide the Secretary with reports and data necessary to carry out the program described in paragraph (2).

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

There are authorized to be appropriated such sums as are necessary for fiscal year 2011 and such sums as are necessary for fiscal year 2012.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) In General.—The Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:

“ENERGY STAR PROGRAM.

“SEC. 324A. Energy Star program.

(c) DUTIES.

(1) The Administrator of the Small Business Administration, in consultation with the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities representing all aspects of energy technologies and products; and

(3) The Secretary shall design the scope and structure of the program under subsection (b) to address any major contribution to energy conservation standards.

(b) DIVISION OF RESPONSIBILITIES.

(1) The Secretary shall provide technical assistance and other guidance necessary to carry out the program described in subsection (a).

(2) Authorization of Appropriations.

There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INITIATIVE.

(a) In General.—The Secretary shall carry out a comprehensive national program, including advertising and media awareness, to inform consumers about—

(1) the need to reduce energy consumption during the 4-year period beginning on the date of enactment of this Act and the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(2) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(3) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and petroleum, including—

(A) maintaining and repairing heating and cooling ducts and equipment;

(B) weatherizing homes and buildings;

(C) purchasing energy efficient products; and

(D) proper tire maintenance.

(b) Cooperation.—The program carried out under subsection (a) shall—

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) utilize public and private partnerships to share the cost of production and implementation of materials to be distributed under this subsection.

(3) The program shall be implemented in cooperation with State and local government officials and the private sector.
(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) REPORT.—Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

(d) TERMINATION OF AUTHORITY.—The program established under this section shall terminate on December 31, 2010.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the section $900,000,000 for each of fiscal years 2006 through 2010.

SEC. 135. ENERGY CONSERVATION STANDARDS FOR LIGHTING FIXTURES (a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6301) is amended—

(1) in paragraph (2)—

(A) in subparagraph (D)—

(ii) by adding at the end the following:

‘‘(B) is air-cooled; and

(ii) by striking ‘‘a refrigeration system, using an electric motor;’’ and

(3) any transformer not listed in clause (ii) that is not listed in clause (i) and

(ii) has an output voltage of 600 volts or less;

(iii) any transformer not listed in clause (ii) that is not listed in clause (i) and

(ii) has an output voltage of 600 volts or less;

(iii) is rated for operation at a frequency of 60 Hertz.

(B) The term ‘‘distribution transformer’’ does not include—

(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, manifold transformer, 2D or 3D transformer, or testing transformer; or

(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule.

(C) the application of standards to the transformer would not result in significant energy savings.

(2) The term ‘‘mercury vapor lamp ballast’’ means a distribution transformer that is designed for use to replace an existing ballast in a previously installed luminaire.

(3) The term ‘‘mercury vapor lamp’’ means a tube-shaped or round lamp of any length that is designed to operate using a mercury vapor lamp ballast.

(4) The term ‘‘lighting fixture’’ means a lamp or an assembly of lamps designed to be attached to the ceiling or walls of a building to provide visible light for general purpose applications.

(5) The term ‘‘mercury vapor lamp luminaire’’ means a device that contains one or more mercury vapor lamps and the equipment necessary to operate the lamps in a manner that provides for attachment to the ceiling or walls of a building.

(6) The term ‘‘lamp’’ means a device intended to produce light and does not include a sign that is illuminated exit sign.

(7) The term ‘‘luminated exit sign’’ means a sign that—

(A) is designed to be permanently fixed in place to identify an exit; and

(B) consists of an electrically powered integral light source that—

(i) illuminates the legend ‘‘EXIT’’ and any directional indicators; and

(ii) provides contrast between the legend, any directional indicators, and the background.

(8) The term ‘‘low-voltage dry-type distribution transformer’’ means a distribution transformer that—

(A) has an input voltage of 600 volts or less; (B) is air-cooled; and

(C) does not use oil as a coolant.

(9) The term ‘‘pedestrian module’’ means a device designed to be attached to the ceiling or walls of a building to provide visible light for general purpose applications.

(10) The term ‘‘refrigerated bottled or canned beverage vending machine’’ means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

(11) The term ‘‘standby mode’’ means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

(A) cannot be switched off or influenced by the user; and

(B) may persist for an indefinite time when an appliance is—

(i) connected to the main electricity supply; and

(ii) used in accordance with the instructions of the manufacturer.

(12) The term ‘‘torchiere’’ means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

(13) The term ‘‘traffic signal indication’’ means a standard 4-inch (200mm) or 12-inch (300mm) traffic signal indication that—

(A) consists of a light source, a lens, and all other parts necessary for operation; and

(B) communicates movement messages to drivers through red, amber, and green colors.

(14) The term ‘‘transformer’’ means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

(15) The term ‘‘unit heater’’ means a self-contained fan-type heater designed to be installed within the heated space.

(16) The term ‘‘unit heater’’ does not include a warm air furnace.

(17) The term ‘‘high intensity discharge lamp’’ means an electric-discharge lamp in which—

(i) the light-producing arc is stabilized by bulb wall temperature; and

(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm².

(18) The term ‘‘high intensity discharge lamp’’ includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

(19) The term ‘‘mercury vapor lamp’’ means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

(20) The term ‘‘mercury vapor lamp’’ includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

(21) The term ‘‘mercury vapor lamp ballast’’ means a device that is designed to be in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer.

(22) The term ‘‘mercury vapor lamp luminaire’’ means a device that is designed to be in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer.

(23) The term ‘‘mercury vapor lamp luminaire’’ means a device that is designed to be in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer.

(24) The term ‘‘mercury vapor lamp luminaire’’ means a device that is designed to be in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer.
(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the ‘Standard Test Method for Measuring the Energy Consumption of Distribution Transformers’ prescribed by the National Electrical Manufacturers Association (NEMA TP 2-1998).

(B) The Secretary may review and revise the test procedures established under subparagraph (A).

(C) For purposes of section 368(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 368(a)(1) for distribution transformers for which the Secretary determines that energy conservation standards would—

(i) be technologically feasible and economically justified; and

(ii) result in significant energy savings.

(11) Test procedures for traffic signal modulators and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

(12) Test procedures for non-commercial premise base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star Program Requirements for Electrical Energy Efficiency. (B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

(B) The Secretary may review and revise the test procedures for the power use of battery chargers and external power supplies.

(E) Not later than 3 years after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards under this section, and the date of enactment of this subsection shall apply to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

(3) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

(C) The assessment under subparagraph (B)(ii) shall include—

(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

(ii) suggested product classes for energy conservation standards.

(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

(E) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

(2) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

(i) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

(ii) would result in significant overall annual energy savings, considering standby mode and other operating modes.

(3) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards under this section, and the date of enactment of this subsection shall apply to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

(4) Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

(6) (o) BATTERY CHARGER AND EXTERNAL POWER SUPPLY VENDING MACHINES—(4) Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe, by rule, test procedures and energy conservation standards for battery chargers and external power supplies.

(3) In establishing the test procedures and energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

(4) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.
(u) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs published by the Environmental Protection Agency.

(2) Door openers.—(A) by January 1, 2007, the Secretary shall issue a final rule in accordance with subsections (e), (f), and (g) to establish requirements to ensure that any State or local standard prescribed for door openers, except that any State or local standard prescribed or enacted after the date of enactment of this subsection shall not be deemed until the energy conservation standard established under subsection (i), (u), or (v) for the product takes effect; and

(2) products for which energy conservation standards are established under subsection (i), (u), or (v) on or after the date of enactment of those subsections, except that any State or local standard prescribed or enacted after the date of enactment of those subsections, except that any State or local standard prescribed or enacted on or after January 1, 2007 shall not substantively expand the exceptions for, certain product classes for which the primary standards are not technically feasible or economically justified; and

(3) commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have an Energy Factor that meets or exceeds the following values:

"Product Capacity Minimum Energy
(pints/day) Factor (Liters/Wk)
25.00 or less ................................. 1.00
25.01 – 30.00 .................................. 1.20
30.01 – 45.00 .................................. 1.40
45.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

(dd) COMMERCIAL PREIRREGN SPRAY VALVES.—Commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

(ee) MERCURY VAPOR LAMP BALLASTS.—Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2006.

(ff) CEILING FANS AND CEILING FAN LIGHT KITS.—(1) All ceiling fans manufactured on or after January 1, 2006, shall have an energy factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

(gg) APPLICATION DATE.—Section 327 applies to:

(2) for products for which energy conservation standards are established under subsections (i), (u), or (v) on or after the date of enactment of those subsections, except that any State or local standard prescribed or enacted after the date of enactment of those subsections, except that any State or local standard prescribed or enacted on or after January 1, 2007 shall not be preempted until the energy conservation standard established under subsections (i), (u), or (v) for the product takes effect; and

(d) GENERAL RULE OF PREEMPTION.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6292(c)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "or"; and

(3) by adding at the end the following:

"(T)(A) a regulation concerning standards for commercial preirrigation spray valves adopted by the California Energy Commission before January 1, 2005; or

"(B) is an amendment to a regulation described in subparagraph (A) that is manufactured after January 1, 2005; or

"(3) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards and related Performance Specification: Pedestrian Traffic Control Signal Indications".

SEC. 138. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

(a) DEFINITIONS.—In this section, the terms Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(iii) shall include the lamps described in clause (i) in the ceiling fan lighting kits.

(5)(A) After January 1, 2010, the Secretary may consider, and issue, if the requirements of subsection (b) and (p) are met, amended energy efficiency standards for ceiling fan light kits.

(B) Any amended standards issued under subparagraph (A) shall be in effect on or after January 1, 2012, shall have an Energy Factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

"Commercial Preirrigation Spray Valves.

Commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

Mercury Vapor Lamp Ballasts.

Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2006.

Ceiling Fans and Ceiling Fan Light Kits.

All ceiling fans manufactured on or after January 1, 2006, shall have an Energy Factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

Commercial Preirrigation Spray Valves.

Commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

Mercury Vapor Lamp Ballasts.

Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2006.

Ceiling Fans and Ceiling Fan Light Kits.

All ceiling fans manufactured on or after January 1, 2006, shall have an Energy Factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

Commercial Preirrigation Spray Valves.

Commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

Mercury Vapor Lamp Ballasts.

Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2006.

Ceiling Fans and Ceiling Fan Light Kits.

All ceiling fans manufactured on or after January 1, 2006, shall have an Energy Factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

Commercial Preirrigation Spray Valves.

Commercial preirrigation spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

Mercury Vapor Lamp Ballasts.

Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2006.

Ceiling Fans and Ceiling Fan Light Kits.

All ceiling fans manufactured on or after January 1, 2006, shall have an Energy Factor that meets or exceeds the following:

"Energy Factor (Liters/Wk)
35.01 ................................. 1.20
35.01 – 54.00 .................................. 1.40
54.01 – 74.99 .................................. 1.60
75.00 or more ................................. 2.50

(1) in paragraph (1)—
(A) by redesignating subparagraphs (D) through (G) as subparagraphs (H) through (K), respectively, and
(B) by inserting after subparagraph (C) the following:

“(D) Very large commercial package air conditioning and heating equipment.

(E) Commercial refrigerators, freezers, and refrigerator-freezers.

(F) Automatic commercial ice makers.

(G) Refrigeration equipment that is rated—

(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

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

“(B) The term ‘vertical-axis clothes washer’ means a machine that

(ii) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

(iii) for small commercial package air conditioning and heating equipment, means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps as the following standards:

(i) applications in which the occupants of more than 1 household will be using the clothes washer, such as multi-family housing common areas and coin-operated washers;

(ii) very large commercial package air conditioning and heating equipment, means commercial package air conditioning and heating equipment that is rated 135,000 Btu per hour (cooling capacity).

(C) The term ‘large commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated 240,000 Btu per hour (cooling capacity).

(3)(G) by adding at the end the following:

“(G) The term ‘very large commercial package air conditioning and heating equipment’ means large commercial package air conditioning and heating equipment that is rated 320,000 Btu per hour (cooling capacity).

(B) The term ‘small commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

(C) The term ‘large commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated 240,000 Btu per hour (cooling capacity).

(D) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum energy efficiency ratio of very large commercial package air conditioning and heating equipment that is capable of serving the following standards:

(A) The term ‘very large commercial package air conditioning and heating equipment’ means a factory-made assembly of refrigeration equipment that is rated 320,000 Btu per hour (cooling capacity) and less than 65,000 Btu per hour (cooling capacity) or

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(D) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum energy efficiency ratio of very large commercial package air conditioning and heating equipment that is capable of serving the following standards:

(A) The term ‘very large commercial package air conditioning and heating equipment’ means a factory-made assembly of refrigeration equipment that is rated 320,000 Btu per hour (cooling capacity) and less than 65,000 Btu per hour (cooling capacity) or

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(D) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum energy efficiency ratio of very large commercial package air conditioning and heating equipment that is capable of serving the following standards:

(A) The term ‘very large commercial package air conditioning and heating equipment’ means a factory-made assembly of refrigeration equipment that is rated 320,000 Btu per hour (cooling capacity) and less than 65,000 Btu per hour (cooling capacity) or

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(D) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.2 for equipment with no heating or electric resistance heating; and

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

(i) 11.0 for equipment with no heating or electric resistance heating; and

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).
“(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—(1) In this subsection:

“(A) The term ‘AV’ means the adjusted volume (ft³) (defined as 1.62 x frozen temperature compartment volume (ft³) + chilled temperature compartment volume (ft³)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRPI-1979.

“(B) The term ‘V’ means the chilled or frozen compartment volume (ft³) (as defined in the Association of Home Appliance Manufacturers Standard HRPI-1979).

“(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

“(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

<table>
<thead>
<tr>
<th>Equipment Type</th>
<th>Type of Cooling</th>
<th>Harvest Rate (lbs ice/24 hours)</th>
<th>Maximum Energy Use (kWh/hr 200 lbs Ice)</th>
<th>Maximum Condenser Water Use (gal/hr 200 lbs Ice)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ice Making Head</td>
<td>Water</td>
<td>&lt;500</td>
<td>7.80-0.0055H</td>
<td>200-0.022H</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥500 and &lt;1436</td>
<td>5.58-0.0011H</td>
<td>200-0.022H</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥1436</td>
<td>4.0</td>
<td>200-0.022H</td>
</tr>
<tr>
<td>Ice Making Head</td>
<td>Air</td>
<td>&lt;450</td>
<td>10.26-0.0086H</td>
<td>Not Applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥450</td>
<td>6.89-0.0011H</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Remote Condensing (but not remote compressor)</td>
<td>Air</td>
<td>&lt;1000</td>
<td>8.85-0.0038H</td>
<td>Not Applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥1000</td>
<td>7.10</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Remote Condensing and Remote Compressor</td>
<td>Air</td>
<td>&lt;934</td>
<td>8.85-0.0038H</td>
<td>Not Applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥934</td>
<td>5.3</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Self Contained</td>
<td>Water</td>
<td>&lt;200</td>
<td>11.40-0.019H</td>
<td>191-0.0315H</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥200</td>
<td>7.60</td>
<td>191-0.0315H</td>
</tr>
<tr>
<td>Self Contained</td>
<td>Air</td>
<td>&lt;175</td>
<td>18.0-0.0469H</td>
<td>Not Applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>≥175</td>
<td>9.80</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

H = Harvest rate in pounds per 24 hours.
Water use is for the condenser only and does not include potable water used to make ice.

“(2)(A) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured on or after January 1, 2012.

“(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

“(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers with the standard levels effective for equipment manufactured on or after January 1, 2012.

“(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

“(4)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

“(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

“(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

“(i) 3 years after the date on which the final amended standard is published; or

“(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

“(D) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6331) (as amended by subsection (c)) is amended by adding at the end the following:

“(4) AUTOMATIC COMMERCIAL ICE MAKERS.—(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 343(a)(7) and is manufactured on or after January 1, 2010, shall meet the following standard levels:

<table>
<thead>
<tr>
<th>Equipment Type</th>
<th>Type of Cooling</th>
<th>Harvest Rate (lbs ice/24 hours)</th>
<th>Maximum Energy Use (kWh/hr 200 lbs Ice)</th>
<th>Maximum Condenser Water Use (gal/hr 200 lbs Ice)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refrigerators/freezers with solid doors</td>
<td>0.27 AV – 0.71 or 0.70</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Freezers with transparent doors</td>
<td>0.75 V + 4.10</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
after the date on which the final amended standard is published.

"(d) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level technically feasible and economically justified, as provided in subsections (o) and (p) of section 325."

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

"(A) a Modified Energy Factor of at least 1.25; and

"(B) a Water Factor of not more than 9.5.

"(2)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

"(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

(f) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

"(1) by adding at the end the following:

"(A) in paragraph (a),—

"(i) in subparagraph (B), by inserting "large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(ii) in subparagraph (B), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(B) by adding at the end the following:

"(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

"(ii) A final rule shall establish standards at the maximum level technically feasible and economically justified, as provided in subsections (o) and (p) of section 325.

"(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by adding at the end the following:

"(1) in paragraph (a),—

"(A) the test procedures determined by the Secretary, unless the Secretary determines, by rule, published in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure; and

"(B) if a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

"(i) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

"(ii) based on that review, adopt 1 new test procedure for use in the standards program.

"(2) If a new test procedure is adopted under clause (i)—

"(A) section 323(e) shall apply; and

"(B) subparagraph (B) shall apply to the adopted test procedure.

"(h) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended, the Secretary shall follow the procedures and meet the requirements under section 323(e).

"(i) In establishing the appropriate test procedures under this paragraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

"(j) Not later than 180 days after the publication in the Federal Register of the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure.

"(k) In the first sentence of subsection (b)(1), by striking "part B" and inserting "part A"; and

"(l) by adding at the end the following:

"(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to all large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

"(2) Any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 324(a)(9) take effect on January 1, 2010.

"(m) Subsections (a), (b), (c), and (d) of section 325, and sections 326 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

"(n) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(o) A final rule shall apply to all large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

"(p) Any State or local standard issued before the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

"(q) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(r) A final rule shall apply to all large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers which are applicable for which standards are established under paragraphs (2) and (3) of section 342(c) to the same extent and in the same manner as those provisions apply under part B.

"(s) In the case of residential clothes washers, section 327 shall apply with respect to residential clothes washers under section 325.

"(t) In the case of large commercial clothes washers, section 327 shall apply with respect to large commercial clothes washers under section 325.

"(u) A section of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by adding at the end the following:

"(1) in paragraph (a),—

"(A) except as provided in clause (ii),

"(B) a Water Factor of not more than 9.5.

"(2) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(3) of subsection (a) shall apply.

"(v) In subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(w) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(x) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(y) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(z) in subsection (d)(1), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment;" and

"(AA) a Water Factor of not more than 9.5.


"(CC) if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended by the Secretary, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

"(DD) a Water Factor of not more than 9.5.

"(EE) the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

"(FF) a Water Factor of not more than 9.5.


"(HH) a Water Factor of not more than 9.5.

"(II) by adding at the end the following:

"(1) in paragraph (a),—

"(A) in paragraph (2), by striking the period at the end and inserting "and"

"(B) in paragraph (3), by striking the period at the end and inserting "and"

"(C) by adding at the end the following:

"(1) in the case of commercial clothes washers, section 327(b)(1) shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.;"
ice makers for which standards have been established under section 324(d) (2) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

"(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

"(g)(1) Not later than 18 months after the date of enactment of this paragraph, the Commission shall issue by rule, in accordance with this section, labeling requirements for the electricity used and energy consumption and emissions of greenhouse gases in the air in a room from a ceiling fan.

"(ii) The rule issued under clause (i) shall apply to products manufactured after the later of—

"(I) January 1, 2009; or

"(II) the date that is 60 days after the final rule is issued.

"(h) MAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

"(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below the test values for the purpose of bringing non-complying equipment into compliance.

SEC. 150. PUBLIC HOUSING CAPITAL FUND.

(a) In General.—The Administrator of General Services shall conduct a study on the performance standards for achieving energy efficiency in buildings that are used by public housing agencies.

(b) Contents.—Such study shall include an analysis of—

(1) the energy end-cost savings derived from the use of intermittent fans;

(2) the costs savings derived from reduced maintenance requirements;

(3) such other issues as the Administrator considers appropriate.

SEC. 151. PUBLIC HOUSING CAPITAL FUND.

(a) Initial Report.—The Secretary shall submit to Congress a report regarding any new or revised energy conservation or water use standards to which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of new or revised standards and set forth the Secretary's plan for expeditiously promoting such new or revised standards. The Secretary's initial report shall be submitted not later than 6 months following enactment of this Act and subsequent reports shall be submitted every 6 months thereafter.

SEC. 152. AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 153. PUBLIC HOUSING CAPITAL FUND.

(a) Initial Report.—The Secretary shall submit to Congress a report regarding any new or revised energy conservation or water use standards to which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of new or revised standards and set forth the Secretary's plan for expeditiously promoting such new or revised standards. The Secretary's initial report shall be submitted not later than 6 months following enactment of this Act and subsequent reports shall be submitted every 6 months thereafter.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 154. ENERGY EFFICIENCY PILOT PROGRAM.

(a) In General.—The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

(1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—

(A) removing disincentives for utilities to implement energy efficiency programs;

(B) encouraging utilities to undertake voluntary energy efficiency programs;

(C) ensuring appropriate returns on energy efficiency programs.

SEC. 155. REPORT ON FAILURE TO COMPLY WITH DEADLINES FOR NEW OR REVISED ENERGY CONSERVATION STANDARDS.

(a) Initial Report.—The Secretary shall submit to Congress a report regarding any new or revised energy conservation or water use standards to which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of new or revised standards and set forth the Secretary's plan for expeditiously promoting such new or revised standards. The Secretary's initial report shall be submitted not later than 6 months following enactment of this Act and subsequent reports shall be submitted every 6 months thereafter.

(b) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.
200, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate—

“(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures;” and

(2) in section 13317(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b))—

(A) by striking “The” and inserting the following:

“(i) in general.—The” and

(B) by inserting at the end the following:

“(ii) third party contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, contracts to pay for resident-paid utilities, and adjustments to frozen base year consumption, including systems required to meet applicable building and safety codes and adjustments for utility rates increased by rehabilitation.

“(iii) term of contract.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.

SEC. 152. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances and water fixtures purchased for public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code for “1989.”

SEC. 154. ENERGY STRATEGY FOR HUD.

The Secretary of Housing and Urban Development shall implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress not later than 1 year after the date of enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to implement the strategy for public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) Resource Assessment.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (including tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other factors.

(b) Contents of Reports.—Not later than 1 year after the date of enactment of this Act, 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;

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and future energy demand centers for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers;

(c) Authorization of Appropriations.—For the purposes of this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) Incentive Payments.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 1317(a)) is amended—

(1) by striking “within 1 year after the date of enactment of the Energy Policy Act of 1992” and inserting “September 30, 2006”;

(ii) by striking “and at the end;” and

(ii) by adding at the end the following:

(4) the purchase of energy-efficient appliances is not cost-effective to the agency.

(iii) in subparagraph (B), by inserting the period ended and inserting “; and”;

(iv) by adding at the end the following:

(C) any of the following forest-related products or FEMP-designated products, as such terms are defined in section 533 of the National Energy Conservation Policy Act), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President, acting through the Secretary, shall ensure that, to the extent economically feasible and technologically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2010, and

(2) Not less than 5 percent in fiscal years 2011 through 2012.

(b) Definitions.—In this section:

(Biomass.—the term “biomass” means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—

(1) agriculture, including the following forest-related resources: mill residues, precommercial thinnings, wood waste, pulp mill sludges, paper and paper mill process wastes (including forest thinnings); biowaste, sludge, and construction wood wastes (other than pressure-treated, chemically-treated, or painted

(ii) 40 percent of appropriated funds for the fiscal year to other projects.

(“B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary shall—

(b) Qualified Renewable Energy Facilities.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 1317(b)) is amended—

(1) by striking “A State or any political and all that follows through “nonprofit electrical cooperative” and inserting “a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1612))”;

(2) by inserting “landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal),” after “wind, biomass,”.

(c) Eligibility Window.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 1317(c)) is amended by striking the date of enactment of this section” and inserting “before October 1, 2016”.

(d) Payment Period.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 1317(d)) is amended by striking any term, clause, sentence, or phrase beginning “in the case of”, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility after “eligible for such payments”.

(e) Amount of Payment.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 1317(e)(1)) is amended to strike “the expiration of” and all that follows through “of this section” and inserting “September 30, 2006”.

(f) Termination of Authority.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 1317(f)) is amended by striking “the expiration of” and all that follows through “of this section” and inserting “each of fiscal years 2006 through 2026, to remain available until expended.”.

SEC. 204. FEDERAL PURCHASE REQUIREMENT.

(a) Requirement.—The President, acting through the Secretary, shall ensure that, to the extent economically feasible and technologically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) Definitions.—In this section:

(Biomass.—the term “biomass” means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—
wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the bio-
degradation of solid waste, or paper that is com-
monly recycled.
(C) agriculture wastes, including orchard tree
crops, vineyard, grain, legumes, sugar, and other
crop by-products or residues, and livestock
waste products.
(D) a plant that is grown exclusively as a fuel
for the production of electricity.

(2) RENEWABLE ENERGY.—The term "renew-
able energy" means electric energy generated
from solar, wind, biomass, landfill gas, ocean
(including tidal, wave, current, and thermal),
geothermal, municipal solid waste, or new hy-
droelectric generation capacity achieved from
increased efficiency or additions of new capac-
ity at an existing hydroelectric project.

(3) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 204. USE OF PHOTOVOLTAIC ENERGY IN
PUBLIC BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31
of title 40, United States Code, is amended by
adding at the end the following:

§3177. Use of photovoltaic energy in public
buildings

(a) PHOTOVOLTAIC ENERGY COMMERCIALIZA-
TION PROGRAM.—
(1) IN GENERAL.—The Administrator of
Federal Services may establish a photovoltaic
energy commercialization program for the procur-
ement and installation of photovoltaic solar elec-
tric systems for electric production in new and
existing public buildings.

(2) PURPOSES.—The purposes of the program
shall be to accomplish the following:

(A) to stimulate the growth of a commer-
cially viable photovoltaic industry to make this
energy system available to the general public as
an option which can reduce the national con-
sumption of fossil fuel.

(B) To reduce the fossil fuel consumption and
costs of the Federal Government.

(C) To establish the goal of installing solar en-
system in 20,000 Federal buildings by 2010,
as contained in the Federal Government's Mil-

(3) ACQUISITION OF PHOTOVOLTAIC SOLAR
ELECTRIC SYSTEMS.—
(A) IN GENERAL.—The program shall provide
for the acquisition of photovoltaic solar electric
systems and associated storage capability for
use in public buildings.

(B) ACQUISITION FEASIBILITY.—The acquisition
of photovoltaic electric systems shall be at a level
substantial enough to allow use of low-cost pro-
duction techniques with at least 15 megawatts (peak)
reserve acquired during the 5 years of the
program.

(4) ADMINISTRATION.—The Administrator
shall administer the program and shall—

(A) enforce and regulate as may be
appropriate to monitor and assess the per-
formance and operation of photovoltaic solar
electric systems installed pursuant to this sub-
section;

(B) develop innovative procurement strate-
gies for the acquisition of such systems;

(C) transmit an annual report on the results
of the program.

(b) PHOTOVOLTAIC SYSTEMS EVALUATION
PROGRAM.—
(1) IN GENERAL.—Not later than 60 days after
the date of enactment of this section, the Ad-
mistrator shall establish a photovoltaic solar
energy systems evaluation program to evalu-
ate such photovoltaic solar energy systems as are
required in public buildings.

(2) PROGRAM REQUIREMENT.—In evaluating
photovoltaic solar energy systems established by
the program, the Administrator shall ensure that
such systems reflect the most advanced technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 205. BIOBASED PRODUCTS.

(1) IN GENERAL.—The term "bio-based prod-
ucts" means any organic chemical substance,
product, or derivative produced through a
process that results in the removal of a sub-
significant amount of an existing natural re-
source, not including agricultural crops, trees,
and wood and wood residues, and livestock
waste products, that is wholly derived from,
including agricultural, forest, and municipal
wastes, and other renewable feedstocks.

(2) PROGRAM REQUIREMENT.—The Adminis-
trator shall establish a bio-based products pro-
gram to evaluate the use of bio-based products
in public buildings and provide a report to
Congress on the progress of the program.

(3) ADMINISTRATION.—The Administrator
shall administer the program and shall—

(A) provide a report to Congress on the progress
of the program;

(B) develop innovative procurement strate-
gies for the acquisition of such systems;

(C) transmit an annual report on the results
of the program.

(4) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 206. RENEWABLE ENERGY SECURITY.

(a) WEATHERIZATION.—Section 415(c) of the Energy
Conservation and Production Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "in para-
graph (3) and inserting "in paragraphs (3) and
(4);";

(2) in paragraph (3), by striking "$2,500 per
dwelling unit average provided in paragraph
(1)" and inserting "($1,500,000 for each of
fiscal years 2006 through 2010. Such sums
shall remain available until expended."
);

(3) by adding at the end of paragraph
(4) the following:

(4) THE EXPENDITURE OF FINANCIAL ASSISTANCE
provided under this part, weatheriza-
tion materials, and related matters for a renew-
able energy system that does not exceed an
average of $3,000 per dwelling unit.

(b) BIOBASED PRODUCTS.—Section 172 of the Energy
Conservation and Production Act (42 U.S.C. 6865(c)) in residential buildings.

(c) WIND ENERGY.—Section 415(c) of the Energy
Conservation and Production Act (42 U.S.C. 6865(c)) in residential buildings.

(d) DISTRICT HEATING AND COOLING PRO-
GRAM.—Section 9002(c) of the Farm Security and
Rural Investment Act of 2002 (7 U.S.C. 9102(c)) is amended by striking "in such section;"
and inserting "in paragraphs (1) and (4) and inserting
"in paragraphs (3) and (4)";

(e) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 405. USE OF OFF-GRID PHOTOVOLTAIC SYSTEMS IN
RESIDENTIAL BUILDINGS.

(a) IN GENERAL.—The term "use of off-grid
photovoltaic systems in residential buildings" means the installation of an off-grid photovoltaic solar elec-
tric system in a residential building to provide hot water or electricity for use within such dwelling.

(b) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 505. USE OF RENEWABLE ENERGY SYSTEMS IN
RESIDENTIAL BUILDINGS.

(a) IN GENERAL.—The term "use of renewable
energy systems in residential buildings" means the installation of a renewable energy system in a
residential building to provide hot water or electricity for use within such dwelling.

(b) AUTHORIZATION OF APPROPRIATIONS.—
SEC. 570. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC
BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31
of title 40, United States Code, is amended by
adding at the end the following:

§3177. Use of photovoltaic energy in public
buildings

(a) PHOTOVOLTAIC ENERGY COMMERCIALIZA-
TION PROGRAM.—
(1) IN GENERAL.—The Administrator of Gen-
eral Services may establish a photovoltaic en-
ergy commercialization program for the procur-
ent and installation of photovoltaic solar elec-
tric systems for electric production in new and
existing public buildings.

(2) PURPOSES.—The purposes of the program
shall be to accomplish the following:

(A) To stimulate the growth of a commer-
cially viable photovoltaic industry to make this
energy system available to the general public as
an option which can reduce the national con-
sumption of fossil fuel.

(B) To reduce the fossil fuel consumption and
costs of the Federal Government.

(C) To establish the goal of installing solar en-
systems in 20,000 Federal buildings by 2010,
as contained in the Federal Government's Mil-

(3) ACQUISITION OF PHOTOVOLTAIC SOLAR
ELECTRIC SYSTEMS.—
(A) IN GENERAL.—The program shall provide
for the acquisition of photovoltaic solar electric
systems and associated storage capability for
use in public buildings.

(B) ACQUISITION FEASIBILITY.—The acquisition
of photovoltaic electric systems shall be at a level
substantial enough to allow use of low-cost pro-
duction techniques with at least 15 megawatts (peak)
reserve acquired during the 5 years of the
program.

(4) ADMINISTRATION.—The Administrator
shall administer the program and shall—

(A) enforce and regulate as may be
appropriate to monitor and assess the per-
formance and operation of photovoltaic solar
(2) a projection of future inventories of renewable fuels based on the incentives provided in this section.

SEC. 207. INSTALLATION OF PHOTOVOLTAIC SYSTEMS.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly known as the Forrestal Building, $35,000,000 for fiscal year 2006. Such sums shall remain available until expended.

SEC. 208. SUGAR CANE ETHANOL PROGRAM.

(a) DEFINITION OF PROGRAM.—In this section, the term “program” means the Sugar Cane Ethanol Program established by subsection (b).

(b) ESTABLISHMENT.—There is established within the Environmental Protection Agency a program to be known as the “Sugar Cane Ethanol Program.”

(c) PROJECT.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) at which each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority;

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to sugar producers and the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii, divided equally among the States, to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 208 $20,000,000, to remain available until expended.

SEC. 209. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

The Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended in title VI by adding at the end the following:

“SEC. 609. RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.

(a) DEFINITIONS.—In this section—

(1) The term ‘eligible grantee’ means a local government or municipality, peoples’ utility district, irrigation district, and cooperative, non-profit, or limited-dividend association in a rural area.

(2) The term ‘incremental hydropower’ means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

(3) The term ‘renewable energy’ means electricity generated from—

(A) a renewable energy source; or

(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

(4) The term ‘renewable energy source’ means—

(A) wind;

(B) ocean waves; and

(C) biomass;

(5) The term ‘rural area’ means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(6) ‘Secretary’ means the Secretary of Agriculture or the Secretary of the Interior.

(b) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person in a preferred community that owns or operates a facility that uses biomass as a raw material to produce electric energy, useful heat, or transportation fuels to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNT.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facilities that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(c) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to increase the use of, or efficiency of, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to—

(A) the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy;

(B) opportunities for the creation or expansion of small businesses and micro-businesses;

(C) the potential for a new job creation;

(D) the potential for the project to improve energy efficiency or develop cleaner technologies for biomass utilization; and

(E) the potential for the project to reduce the hazardous fuels from the areas in greatest need of treatment.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $35,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(e) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture, Natural Resources, and Forestry of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that uses the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible projects.

(4) CONGRESSIONAL RECORD — HOUSE H6709

It is the sense of the Congress that the Secretary of the Interior should, before the end of...
the 10-year period beginning on the date of enactment of this Act, seek to have approved nonhydroponer renewable energy projects located on the public lands with a generation capacity of at least 500 megawatts of electricity.

Section 4. Leasing Procedures.

SEC. 4. LEASING PROCEDURES.

(a) NOMINATIONS.—The Secretary shall accept nominations for lease of land at any time from qualified companies and individuals under this Act.

(b) COMPETITIVE LEASE SALE REQUIRED.—

(1) IN GENERAL.—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to lease under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

(2) COMPETITIVE LEASE SALES.—The Secretary shall hold a competitive lease sale at least once every 10 years in a State in which land nominations pending under subsection (a) if the land is otherwise available for leasing.

(c) COMPETITIVE LEASE SALE REQUIRED.—

(1) IN GENERAL.—Except as otherwise specifically provided by this Act, land to be leased that is not subject to lease under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

(2) COMPETITIVE LEASE SALE REQUIRED.—

(1) IN GENERAL.—Except as otherwise specifically provided by this Act, land to be leased that is not subject to lease under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

(2) COMPETITIVE LEASE SALES.—The Secretary shall hold a competitive lease sale at least once every 10 years in a State in which land nominations pending under subsection (a) if the land is otherwise available for leasing.

(d) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

(e) PENDING LEASE APPLICATIONS.—

(1) IN GENERAL.—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest System lands, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All pending lease applications and resource management plans for areas with high geothermal resource potential shall consider geothermal development.

(f) ADMINISTRATION.—An application described in paragraph (1) and any lease issued pursuant to the application—

(1) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

(2) Leases Sold as a Block.—If information is available to the Secretary indicating a geothermal resource that could be produced as a unit reasonably expected to underlie more than 1 parcel to be offered in a competitive lease sale, the Secretary may offer for bidding as a block in the competitive lease sale.

SEC. 223. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting (A) IN GENERAL.—” after SEC. 223. DIRECT USE.—

(a) DIRECT USE.—

(1) IN GENERAL.—Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate—

(A) uses for purposes other than the commercial generation of electricity; and

(B) does not sell.

(2) SCHEDULE OF FEES.—The schedule of fees—

(A) may be based on the quantity or thermal content, or both, of geothermal resources used;

(B) shall ensure a fair return to the United States for use of the resource; and

(C) shall encourage development of the resource.

(3) STATE, TRIBAL, OR LOCAL GOVERNMENT.—If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.

(4) FINAL REGULATION.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek—

(A) to provide lesees a simplified administrative system;

(B) to encourage new development; and

(C) to achieve the same level of royalty revenues over a 10-year period in effect on the date of enactment of this subsection.

(5) CREDITS FOR IN-KIND PAYMENTS OF ELECTRICITY.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), except as otherwise provided by this section or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

(1) the Secretary has approved in advance the contract between the lessee and the State or county government for a period of 10 years or more after the date of enactment of this Act that does not convert to new royalty payments during the period in effect on the date of enactment of this Act.

(2) the contract establishes a specific methodology to determine the value of such credits; and

(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, ROYALTIES, AND RENTS.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 191) is amended to read as follows:

(1) 50 percent shall be paid to the State with

(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all moneys received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 25(a)(2) of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) prior to the date of enactment of this Act.

(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

(2) 5 percent shall be paid to the county within the boundaries of which the leased lands or geothermal resources are or were located.

(2) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the royalty due, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (a), of the royalty received from a facility in the first 4 years of such production.

(2) DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term "qualified expansion geothermal energy" means geothermal energy produced from a generation facility for which...
(1) the production is increased by more than 10 percent as a result of an expansion of the facility carried out in the 5-year period beginning on the date of enactment of this Act; or

(2) the production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any changes in production during that period).

(e) ROYALTY UNDER EXISTING LEASES.—

(1) In the case of a lease under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide—

(A) the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223), that royalties be based upon a schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be based upon a schedule of fees established under that section.

(2) T IMING.—A request for a modification under this section shall be submitted to the Secretary of the Interior by the date that is not later than—

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) MODIFICATION.—If the lessee requests modifications to a lease under paragraph (1)—

(A) the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with—

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary of the Interior under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the royalty schedule established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification

(4) CONSULTATION.—The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 225. COORDINATION OF GEOTHERMAL LEASING WITH AGRICULTURAL AND FOREST LANDS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a memorandum specifying the Secretary's policies for coordinating geothermal leasing with agricultural and forest lands, and the Secretary may not issue any geothermal lease that contains a provision for the purpose of protecting agricultural or forest lands, until after receiving comments on such policies from the Congress and the Secretary's other land management agencies.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease applications pending on the date of enactment of this Act within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with any provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the good faith leasing activities.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 226. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made under the Geothermal Steam Act of 1970 (30 U.S.C. 1004); and

(2) submit to Congress the updated assessment.

SEC. 227. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

"SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

"(a) ADOPTION OF UNITS BY LESSEES.—

"(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or area, or jointly or separately with others, in collectively adopting and operating a unit agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and

"(2) OPERATION OR PRODUCTION PURSUANT TO A COMMUNITIZATION AGREEMENT.

"(B) UNLIKE TERMS OR RATES.—The Secretary may, in the case of any other lease, that royalties be based upon a schedule of fees established under that section.

(3) EXTENSION.—Any land eliminated under this subsection shall be eligible for an extension under section 6 if the land meets the requirements for the extension.

(4) DRILLING OR DEVELOPMENT CONTRACTS.—

"(1) IN GENERAL.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience and necessity may require or if the interests of the United States may be best served by the approval.

"(2) HOLDINGS OR CONTROL.—Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

"(5) COMMUNITIZATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.

SEC. 228. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (2) and inserting—

"(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral
Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of the mineral under a lease under that Act.

SEC. 229. AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND PENALTIES.

Section 8(f) of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended in the second sentence by striking "period," and in all that follows through the end of the sentence and inserting "period.

SEC. 230. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 222 and 224) is further amended—

1. In subsection (a)(2) by inserting "and" after the semicolon at the end;

2. In subsection (a)(3) by striking "", and" and inserting a period;

3. By striking paragraph (4) of subsection (a); and

4. By adding at the end the following:

"(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.

SEC. 231. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended—

1. By striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

2. By redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

3. By inserting before subsection (g), as so redesignated, the following:

"SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

(a) IN GENERAL.—

(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the tenth year of the lease—

(A) the Secretary determined under subsection (b) that the lessee satisfied the work commitment requirements that applied to the lease for that year;

(B) the lessee paid annual payments in accordance with subsection (c); and

(C) no additional extension is granted under this paragraph for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (b) that the lessee satisfied the minimum work requirements that applied to the lease for that year.

(b) REQUIREMENT TO SATISFY ANNUAL MINIMUM WORK COMMITMENT.—

(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the tenth year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

(2) PRESCRIPTION OF MINIMUM WORK REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that—

(A) establish a geothermal potential; and

(B) if a geothermal potential has been established, confirm the existence of producible geothermal resources.

(c) PAYMENTS IN LIEU OF MINIMUM WORK REQUIREMENTS.—In lieu of the minimum work requirements prescribed by the Secretary, the lessee shall be required to pay annual payments which may be made by the lessee for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource, but in no event shall the number of years exceed the duration of the extension period provided in subsection (a).

(d) TRANSITION RULES FOR LEASES ISSUED PRIOR TO ENACTMENT OF ENERGY POLICY ACT OF 2005.—(1) For a lease by regulation established transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

(A) to allow achievement of production under the lease; or

(B) to allow the lease to be included in a producing unit.

(2) GEOTHERMAL LEASE OVERTAKING MINING CLAIM.—

(A) EXEMPTION.—The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of geothermal resources subject to the lease would interfere with the mining operations under such claim.

(B) TERMINATION OF EXEMPTION.—An exemption under paragraph (1) shall expire upon the termination of the mining operations.

(3) TERMINATION OF APPLICATION OF REQUIREMENTS.—Minimum work requirements prescribed under this paragraph shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.

SEC. 232. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 222, 224, and 230) is further amended by adding at the end the following:

"(f) TERMINATION OF APPLICATION OF REQUIREMENTS.—Minimum work requirements prescribed under this paragraph shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.

SEC. 233. ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended—

1. By striking "" and, by inserting immediately before and above the first paragraph the following:

"SEC. 7. ACREAGE LIMITATIONS.

(1) by striking "" and, by inserting immediately before and above the first paragraph the following:

"SEC. 7. ACREAGE LIMITATIONS.

(a) DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(1) DEPOSIT OF GEOTHERMAL RESOURCES LEASES.—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) USE OF DEPOSITS.—Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 and this Act.

(c) TRANSFER OF FUNDS.—For the purposes of coordination and processing of geothermal leases, the Secretary may use funds available under any authority under this Act or any other authority to transfer funds to the Secretary of the Interior to cover administrative costs associated with the transfer of funds to the Secretary.

SEC. 234. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

1. By striking "geothermal steam and associated geothermal resources" each place it appears and inserting "geothermal resources".

2. Section 2 (30 U.S.C. 1001) is amended by adding at the end the following:

"(d) DIRECT USE MEANS UTILIZATION OF GEOTHERMAL RESOURCES FOR COMMERCIAL, RESIDENTIAL, AGRICULTURAL, PUBLIC FACILITIES, OR OTHER ENERGY NEEDS OTHER THAN THE COMMERCIAL PRODUCTION OF ELECTRICITY.

3. Section 21 (30 U.S.C. 1020) is amended by striking "(a) Within one hundred" and all that
follws through “(b) Geothermal’’ and inserting “‘Geothermal’’.

(4) The first section (30 U.S.C. 1001 note) is amended by striking “That this’’ and inserting the following:

**SEC. 1. SHORT TITLE.**

This’’.

(5) Section 2 (30 U.S.C. 1001) is amended by striking “SEC. 2. As’’ and inserting the following:

**SEC. 2. DEFINITIONS.**

“As’’.

(6) Section 3 (30 U.S.C. 2002) is amended by striking “SEC. 3. Subject’’ and inserting the following:

**SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.**

“Subject’’.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking “SEC. 5. As’’ and inserting the following:

**SEC. 5. LANDS AND ROYALTIES.’’.

(8) Section 8 (30 U.S.C. 1007) is amended by striking “SEC. 8. a) (The’’ and inserting the following:

**SEC. 8. REDUCTION OF LEASE TERMS AND CONDITIONS.**

“(a) The’’.

(9) Section 9 (30 U.S.C. 1008) is amended by striking “sec. 9. If’’ and inserting the following:

**SEC. 9. BYPRODUCTS.**

“Is amended by striking ‘‘SEC. 10. The’’ and inserting the following:

**SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.**

“‘The’’.

(11) Section 11 (30 U.S.C. 1010) is amended by striking “SEC. 11. The’’ and inserting the following:

**SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.**

“The’’.

(12) Section 12 (30 U.S.C. 1011) is amended by striking “SEC. 12. Leases’’ and inserting the following:

**SEC. 12. TERMINATION OF LEASES.**

“Leases’’.

(13) Section 13 (30 U.S.C. 1012) is amended by striking “SEC. 13. The’’ and inserting the following:

**SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.**

“‘The’’.

(14) Section 14 (30 U.S.C. 1013) is amended by striking “SEC. 14. Subject’’ and inserting the following:

**SEC. 14. SURFACE LAND USE.**

“Subject’’.

(15) Section 15 (30 U.S.C. 1014) is amended by striking “SEC. 15. (a) Geothermal’’ and inserting the following:

**SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.**

“(a) Geothermal’’.

(16) Section 16 (30 U.S.C. 1015) is amended by striking “SEC. 16. Leases’’ and inserting the following:

**SEC. 16. REQUIREMENT FOR LEASEES.**

“Leases’’.

(17) Section 17 (30 U.S.C. 1016) is amended by striking “SEC. 17. Administration’’ and inserting the following:

**SEC. 17. ADMINISTRATION.**

“Administration’’.

(18) Section 19 (30 U.S.C. 1018) is amended by striking “SEC. 19. Upon’’ and inserting the following:

**SEC. 19. DATA FROM FEDERAL AGENCIES.**

“Upon’’.

(19) Section 21 (30 U.S.C. 1020) is further amended by striking “SEC. 21. ’’ and inserting immediately before and above the remainder of that section the following:

**SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.**

“(b) In making a determination under paragraph (9) of section 4(e), the Secretary shall include in the record a description of the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. ’’.

(b) FISHWATERS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after “‘and such fishways as may be prescribed by the Secretary of Commerce.’’ the following:

“The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. ’’.

(b) ALTERNATIVE CONDITIONS AND PRESCRIPTIOINS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

**SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

(a) ALTERNATIVE CONDITIONS. —(1) Whenever any person applies for a license to carry out a project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the ‘‘Secretary’’) deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant or any other party to the license proceeding may propose an alternative condition.

(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines that substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

(a) provides for the adequate protection and utilization of the reservation; and

(b) will either, as compared to the condition initially proposed by the Secretary—

(i) cost significantly less to implement; or

(ii) result in improved operation of the project works for electric production. Subtract C Hydroelectric

**SEC. 241. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after “adequate protection and utilization of such reservation. ’’ at the end of the first proviso the following: ‘‘The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. ’’.

(b) FISHWATERS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after “‘and such fishways as may be prescribed by the Secretary of Commerce.’’ the following:

“The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission. ’’.

(b) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:
The Dispute Resolution Service shall consult with the Commission and issue a written advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary’s final written determination into the record of the Commission’s proceeding.

(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

(2) Notwithstanding section 18, the Secretary of Commerce has prescribed a fishway, the license applicant or any other party to the proceeding, or otherwise available to the Secretary, including any evidence voluntarily provided in a timely manner by the applicant and others. The Secretary shall submit the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(3) If the Commission finds that the Secretary’s final condition would be inconsistent with the purposes of this Act, or otherwise available to the Secretary, any other party to the proceeding, or otherwise available to the Secretary, including any information voluntarily provided in a timely manner by the applicant and others. The Secretary shall submit the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(4) If the Commission finds that the Secretary’s final condition would be inconsistent with the purposes of this Act, or otherwise available to the Secretary, any other party to the proceeding, or otherwise available to the Secretary, including any information voluntarily provided in a timely manner by the applicant and others. The Secretary shall submit the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(5) If the Commission finds that the Secretary’s final prescription would be inconsistent with the purpose of this Act, the Commission may refer the dispute to the Commission’s Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a written advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary’s final written determination into the record of the Commission’s proceeding.

SEC. 242. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner of the facility or operator of such a facility, as determined under subsection (b) of this section, in an amount equal to the amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made if the Secretary determines that the application, all studies, data, and other factual information available to the Secretary, including any evidence voluntarily provided in a timely manner by the applicant and others. The Secretary shall submit the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

(2) Notwithstanding section 18, the Secretary of Commerce has prescribed a fishway, the license applicant or any other party to the proceeding, or otherwise available to the Secretary, including any evidence voluntarily provided in a timely manner by the applicant and others. The Secretary shall submit the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(3) CONDUIT.—The term “existing dam or conduit” means existing dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(4) INCENTIVE PERIOD.—The term “incentive period” means the period beginning on the date on which the preliminary permit expires for the facility, or other generating device, and ending on the date of the first fiscal year beginning after the date of enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section to a qualified hydroelectric facility generated and sold by a qualified hydroelectric facility during the incentive period.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section. The term “incentive period” means the period beginning on the date of the enactment of this Act and ending on the date of the first fiscal year beginning after the date of enactment of this Act.

(e) AMOUNT OF PAYMENT.—(1) In general.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2), subject to the availability of appropriations in the provisions of section 32 of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2006 shall be substituted for calendar year 1979. No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $20,000,000 for each of the fiscal years 2006 through 2015.

SEC. 243. HYDROELECTRIC EFFICIENCY IMPROVEMENTS.

(a) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment may be made under this section with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $20,000,000 for each of the fiscal years 2006 through 2015.

SEC. 244. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting “except as provided in subsection (j),” after “commences,” and

(2) by adding at the end the following:

“(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is contrary to the provisions of paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 19(b)(4).

SEC. 245. FLINT CREEK HYDROELECTRIC PROJECT.

(a) EXTENSION OF TIME.—Notwithstanding the time limit specified in the Federal Power Act (16 U.S.C. 798) that would otherwise apply to the Federal Energy Regulatory Commission (referred to in this section as the “Commission”) project number 1207, the Commission shall—

(1) if the preliminary permit is in effect on the date of the enactment of this Act, extend the preliminary permit for a period of 3 years beginning on the date on which the preliminary permit expires; or

(2) if the preliminary permit expired before the date of the enactment of this Act, on request of the permittee, reinstate the preliminary permit for an additional 3-year period beginning on the date of enactment of this Act.

(b) TRANSMISSION FEES.—Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision
of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Commission, or of the political subdivision of the State of Montana that holds a Commission license for the Commission project numbered 12107 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—
(1) $100,000; or
(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SEC. 248. SMALL HYDROELECTRIC POWER PROJECTS.

(1) by striking the period ending and inserting a semicolon;
(2) by adding at the end of subsection (a) the following new paragraphs:

(5) the electric utility is located in the Federal Government buildings, and residences; 

(8) the specified rate of return on the project, including cost and profit, is not in excess of 6 percent per year, based on the amount of money necessary to finance the project, and 

(9) such other terms and conditions as the Secretary of Energy may determine.

SEC. 246. SMALL HYDROELECTRIC POWER PROJECTS.

SEC. 251. INSULAR AREAS ENERGY SECURITY.

SEC. 252. PROJECTS ENHANCING INSULAR ENERGY INDEPENDENCE.

(a) PROJECT FEASIBILITY STUDIES.

(1) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall conduct feasibility studies of projects to carry out the purposes of this title in the insular areas of the United States, and in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(2) REQUEST.

The Secretary shall conduct a feasibility study under paragraph (1) on—

(A) the request of a Federal entity to carry out a project to provide electric power to an insular area that has a demand for electric power, including the Federal Government, any Federal agency, or the Ambassador of the affected freely associated state;

(B) the request of an electric utility to carry out a project to provide electric power to an insular area that has a demand for electric power, including the electric utility, any consumer of electric power in the insular area, or the electric utility company of the affected freely associated state;

(C) the request of a consumer of electric power to carry out a project to provide electric power to an insular area that has a demand for electric power, including the consumer of electric power, any Federal agency, or the Ambassador of the affected freely associated state;

(D) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(E) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(F) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(G) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(H) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(I) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(J) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(K) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(L) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(M) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(N) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(O) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(P) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(Q) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(R) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(S) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(T) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(U) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(V) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(W) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(X) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(Y) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state;

(Z) the request of a local government to carry out a project to provide electric power to an insular area that has a demand for electric power, including the local government, any Federal agency, or the Ambassador of the affected freely associated state.

(b) IMPLEMENTATION.

(1) IN GENERAL.—On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under subsection (a) and that it is consistent with the purposes of this title, the Secretary shall provide such financial assistance as the Secretary determines is appropriate for the implementation of the project.
Title II to read as follows:

"(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);"

"(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;"

"(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenue from petroleum products for the Reserve are obtained through the royalty-in-kind program);"

"(4) protect national security;"

"(5) avoid adverse effects on current and future prices, supplies, and inventories of oil; and"

"(6) address other factors that the Secretary determines to be appropriate.";

SEC. 183. Conditions for release; plan.

"(i) propose the procedures required under the amendment made by subparagraph (A) not later than 120 days after the date of enactment of this Act;"

"(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and"

"(iii) comply with the procedures in acquiring petroleum for the Reserve effective beginning on the date that is 180 days after the date of enactment of this Act.

SEC. 723 of the Energy Act of 2000 (Public Law 106-459; 42 U.S.C. 6201 note) is amended by striking "4" and inserting "9".

SEC. 303. SITE SELECTION.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve. In such proceeding, the Secretary shall first consider and give preference to the five sites which the Secretary previously assessed in the Draft Environmental Impact Statement, DOE/EIS-0165-D. However, the Secretary in his discretion may select other sites as proposed by a State where a site has been previously studied by the Secretary to meet the full authorized volume of the Strategic Petroleum Reserve.
undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.

"(f) In this subsection, the term "military installation"—

"(A) means a base, camp, post, range, station, yard, center, or homeport facility for any ship or other activity of the Department of Defense, including any leased facility, that is located within a State, the District of Columbia, or any territory of the United States;

"(B) does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects, as determined by the Secretary of Defense.

"(2) The Commission shall enter into a memorandum of understanding with the Secretary of Defense for the purpose of ensuring that the Commission coordinate and consult with the Secretary of Defense on the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.

"(3) The Commission shall obtain the concurrence of the Secretary of Defense before authorizing the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.

"(d) LNG TERMINAL STATE AND LOCAL SAFETY CONSIDERATIONS—

SEC. 312. NEW NATURAL GAS STORAGE FACILITIES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following:

"(1) the kind and use of the facility;

"(2) the existing and projected population and demographics of the location;

"(3) the existing and proposed land use near the location;

"(4) the natural and physical aspects of the location;

"(5) the emergency response capabilities near the facility location; and

"(6) the need to encourage remote siting.

"(b) The Governor of a State in which an LNG terminal is proposed to be located shall designate the appropriate State agency for the purposes of consulting with the Commission regarding an LNG terminal.

"(c) The State agency may furnish an advisory report related to any applications prior to issuing an order pursuant to section 3 or section 7.

"(d) The State commission of the State in which an LNG terminal is located may, after the terminal is operational, conduct safety inspections in conformance with Federal regulations and guidelines with respect to the LNG terminal upon written notice to the Commission. The State commission and the Commission of any alleged safety violations. The Commission shall transmit information regarding such allegations to the appropriate Federal agency, which shall take appropriate action and notify the State commission.

"(e)(1) In any order authorizing an LNG terminal the Commission shall require the LNG terminal operator to develop an Emergency Response Plan. The Emergency Response Plan shall be prepared in consultation with the United States Coast Guard and State and local agencies as determined by the Commission prior to any final approval to begin construction. The Plan shall include a cost-sharing plan.

"(2) A cost-sharing plan developed under paragraph (1) shall include a description of any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety—

"(A) at the LNG terminal; and

"(B) in proximities to vessels that serve the facility.

SEC. 313. PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE.

(a) In general.—Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

"(1) by striking the section heading and inserting "PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE";

"(2) by redesignating subsections (a) and (b) as subsections (e) and (f), respectively; and

"(3) by striking "SEC. 11." and inserting the following:

"SEC. 15. (a) In this section, the term "Federal authorization"—

"(1) means any authorization required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7; and

"(2) includes any permits, special use authorizations, certifications, opinions, or other approvals that are required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

"(b) DESENSITIZED—

"(1) In general.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Purpose.—Each Federal and State agency considering an aspect of an application for Federal authorization shall cooperate with the Commission and comply with the deadlines established by the Commission.

"(c) SCHEDULE.—

"(1) COMMISSION AUTHORITY TO SET SCHEDULE—

"The Commission shall establish a schedule for all Federal authorizations. In establishing the schedule, the Commission shall—

"(A) expeditiously complete all such proceedings; and

"(B) comply with applicable schedules established by Federal law.

"(2) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency does not complete a proceeding for an application that is required for a Federal authorization in accordance with the schedule established by the Commission, the applicant may pursue remedies under section 19(d).

"(d) CONSOLIDATED RECORD.—The Commission shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer) in carrying out the authority with respect to any Federal authorization. Such record shall be the record for—

"(1) appeals or reviews under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act;

"(2) decisions made or actions taken under section 19(d) of decisions made or actions taken of Federal and State administrative agencies and officials, provided that, if the Court determines that the decision of an agency under section 19(d) is unreasonable, the Court may remand the proceeding to the Commission for further development of the consolidated record.

"(e) Judicial review.—Section 19 of the Natural Gas Act (15 U.S.C. 717n) is amended by adding at the end the following:

"(f) DUTY OF COURT.—The United States Court of Appeals for the circuit in which a facility subject to section 3 or section 7 is proposed to be constructed, expanded, or operated shall have exclusive jurisdiction to review any civil action for the review of an order or action of a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, modify, or deny any permit, license, concurrence, or approval ( hereinafter collectively referred to as "permit") required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(2) Agency delay.—The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review any civil action for the review of an alleged failure to act by a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, modify, or deny any permit required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), for a facility subject to section 3 or section 7. The failure of an agency to take action on a permit required under Federal law, other than the Coastal Zone Management Act of 1972, in accordance with the Commission schedule established pursuant to section 15(c) shall be considered inconsistent with Federal law for the purposes of paragraph (3).
SEC. 316. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by inserting after section 22 the following:

"NATURAL GAS MARKET TRANSPARENCY RULES—

"Sec. 23. (a)(1) The Commission is directed to facilitate the development of information regarding the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

"(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

"(3) The Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency.

"(b)(1) Rules described in subsection (a)(2), if adopted, shall not exempt from disclosure information which the Commission would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

"(2) In determining the information to be made available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c)(1) Within 180 days of enactment of this section, the Commission shall conduct a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing. Among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated, access to transactional information requests, and provisions regarding the treatment of proprietary trading information.

"(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"SEC. 317. FEDERAL-STATE LIQUIDATED NATURAL GAS FORUMS.

(a) In GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation and consultation with the Secretary of Transportation, the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Chair of the Federal Energy Regulatory Commission, shall convene not less than 3 forums on liquefied natural gas.

(b) REQUIREMENTS.—Each forum shall—

"(1) be located in areas where liquefied natural gas facilities are under consideration;

"(2) be designed to foster dialogue among Federal, State, and local governments, general public, independent experts, and industry representatives; and

"(3) at a minimum, provide an opportunity for public education and dialogue on—

"(A) the role of liquefied natural gas in meeting current and future United States energy supply requirements and demand, in the context of the full range of energy supply options;

"(B) the Federal and State siteing and permitting processes;

"(C) the potential risks and rewards associated with importing liquefied natural gas;

"(D) the Federal safety and environmental requirements (including regulations) applicable to liquefied natural gas;

"(E) prevention, mitigation, and response strategies for liquefied natural gas hazards; and

"(F) additional issues as appropriate.

(c) PURPOSE.—The purpose of the forums shall be to identify and develop best practices for addressing issues associated with liquefied natural gas imports, building on existing cooperative efforts.

(d) AUTHORIZATION.—The APPROPRIATIONS.—There are appropriated to be authorized such sums as are necessary to carry out this section.

SEC. 318. PROHIBITION OF TRADING AND SERVING BY CERTAIN INDIVIDUALS.

Section 20 of the Natural Gas Act (15 U.S.C. 717d) is amended by adding at the end the following:

"(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently, or for such period of time as the court determines, any individual who has engaged or is engaged in practices constituting a violation of section 4A (including related rules and regulations) from—

"(1) acting as an officer or director of a natural gas company; or

"(2) purchasing or selling of natural gas; or

"(B) the purchasing or selling of transmission services subject to the jurisdiction of the Commission.

..."
SEC. 322. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

(a) CONVEYANCE.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as “Taft”, “the City of Taft”, or “the City”), all surface interest of the United States in and interest of the United States in and to a parcel of real property consisting of approximately 220 acres located in the NE\4 of the NW\4, Section 18, Township 32 south, Range 24 east, Mount Diablo meridian, Kern County, California.

(b) PURPOSES OF ACCOUNT.—(1) DISTRIBUTION OF REVENUES.—The lease revenue account shall be the sole and exclusive source of funds to pay for any and all costs and expenses incurred by the United States for—

(A) environmental investigations (other than any environmental investigations that were conducted by the Secretary before the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331), remediation, compliance actions, response, waste management, impediments, fines or penalties, or any other costs or expenses of any kind arising from, or relating to, conditions existing on or below the Naval Petroleum Reserve Numbered 2 lands, or activities occurring or having occurred on such lands, on or before the date of the transfer of such lands; and

(B) any future remediation necessitated as a result of pre-transfer and leasing activities on such lands.

(2) TRANSITION COSTS.—The lease revenue account shall also be available for use by the Secretary to pay for transition costs incurred by the Secretary or any other Federal agency or contractor associated with the transfer and leasing of the Naval Petroleum Reserve Numbered 2 lands.

(c) FUNDING.—The lease revenue account shall consist of the following:

(1) Notwithstanding any other provision of law, for a period of three years after the date of the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331, the sum of $590,000 per year of revenue from leases entered into before that date, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

(2) Subject to subsection (d), all revenues derived from leases on Naval Petroleum Reserve Numbered 2 lands issued on or after the date of the transfer of such lands, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

(d) LIMITATION.—Funds in the lease revenue account shall not exceed $3,000,000 at any one time. Whenever funds in the lease revenue account are obligated or expended so that the balance in the account falls below that amount, lease revenues referred to in subsection (c)(2) shall be deposited in the account to maintain a balance of $3,000,000.

(e) TERMINATION OF ACCOUNT.—At such time as the Secretary of the Interior certifies that remediation of all environmental contamination of Naval Petroleum Reserve Numbered 2 lands in existence as of the date of the transfer of such lands under section 331 has been successfully completed, that all costs and expenses of investigation, remediation, compliance actions, response, waste management, impediments, fines, or penalties associated with environmental contamination of such lands in existence as of the date of the transfer have been paid in full, and that the transition costs of the Department of the Interior referred to in subsection (b)(2) have been paid in full, the lease revenue account shall be terminated and any remaining funds shall be distributed in accordance with subsection (f).

(f) DISTRIBUTION OF REMAINING FUNDS.—Section 35 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) shall apply to the distribution of all funds remaining in the lease revenue account upon its termination under subsection (e).
and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(b) Requirement.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(c) Disposition by the Secretary.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas) that is not disposed of as a result of a lease covering the area in which the royalty production was produced after the Secretary has transacted in section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(d) Retention by the Secretary.—The Secretary shall submit to Congress a report that addresses any royalty-in-kind program under this section (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-kind.

(e) Reporting.—(1) In general.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 6(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1361f(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall submit a report that addresses the royalty-in-kind program described in subsection (d) to Congress.

(f) Authorization of appropriations.—(1) In general.—The Secretary may, without regard to fiscal year limitation, or may use oil or gas received as royalty in-kind (referred to in this paragraph as “royalty production”) to pay the costs of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; and

(D) transport or processing, and disposing of the royalty production.

(g) Limitation.—(1) In general.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(2) Exception.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from the royalty-in-kind sales for the administration of the Federal oil and gas leasing programs.

(h) Reimbursement of cost.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas to a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(i) Benefit to the United States Required.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(j) Reports.—(1) In general.—Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop business processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) Reports on Oil or Gas Royalties Taken in-Kind.—For each of fiscal years 2006 through 2015 in which the United States takes oil or gasroyalties in-kind under any section of this Act or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refiners under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-kind;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases and the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and administrative savings and any new or increased administrative costs; and

(D) an explanation of any relevant public benefits or deterrents associated with taking royalties in-kind.

(k) Deduction of Expenses.—(1) In general.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 6(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1361f(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary may not reduce any payments to lessees by amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) Accounting for Deductions.—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to lessees by more than any such deduction; and

(3) shall consult annually with any State from which Federal oil or gas royalties is being taken in-kind to provide the State with an opportunity to comment on State trends and to improve the State’s ability to derive revenues from taking royalties in-kind and shall make the report described in paragraph (2) available to the public.

(l) Consultation with States.—The Secretary shall consult with a State before conducting a royalty-in-kind program under this subtitle unless the Secretary determines that consultation is not in the public interest.

(m) Reimbursement of Cost.—[Reserved]

(n) Small Refineries.—(1) Preference.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not exceed $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days, the Secretary may grant a preference to any person, in addition to those refineries that do not exceed $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(2) Gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(o) Reduced Royalty Rate.—(1) In general.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) Period of Effectiveness.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(p) Marginal Low-Income Energy Assistance Rate.—A royalty rate prescribed in subsection (c)(1) shall terminate on—

(1) the date that production from a marginal property, on the first day of the production month following the date on which—a

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—a

(A) the spot price of crude oil at Cushing, Oklahoma, on average, exceeds $2.00 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(q) Regulations Prescribing Different Rates.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and
a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) MANDATORY REGULATIONS.—Unless a determination is made in paragraph (3), not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) REPORT.—To the extent the Secretary determines that it is not practicable to issue the regulations required under paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after the date of enactment of this Act.

(4) CONSIDERATIONS.—In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 344. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases, in the shallow waters of the Gulf of Mexico, not more than 400 miles measured along the coast from the coast line, not later than 18 months after the date of enactment of this Act, the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells in such areas, if the deep wells—

(A) are located in water depth of more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico.

(B) are located in water depths of 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico.

(C) moved so as to appear after section 106 of that Act.

(d) FIRST LEASE SALE.—BLM WILDERNESS STUDY.—The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

(e) AVAILABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.
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“(5) EXPLOSION FOR FAILURE TO PRODUCE.—Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease, that lease shall expire.

“(6) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas, or units created thereunder, shall expire or terminate because the lease fails to produce the same due to circumstances beyond the control of the lessee.

“(i) UNIT AGREEMENTS.—In general.

“(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or area, leases (including representatives of the pool, field, reservoir, or area) may unit with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or area (whether or not any part of the oil or gas pool, field, reservoir, or area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary shall consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

“(2) IN GENERAL.—For the purpose of making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the Arctic Slope Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) with respect to the creation and expansion of unit agreements in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

“(3) PRODUCTION ALLOCATION METHODOLOGY.—The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

“(a) In general.—A participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or area shall take into account reservoir heterogeneity and area variation in reservoir productivity across diverse leasehold interest. Determination of the methodology for production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

“(b) BENEFIT OF OPERATIONS.—Drilling, production, and operations.

“(9) by striking “When separate” and inserting the following:

“(10) POOLING.—If separate;

“(11) by inserting “(in consultation with the owners of the other land)” after “determined by the Secretary of the Interior”;

“(12) by striking “thereto; (10) to” and all that follows through “the terms provided therein” and inserting “to the agreement.”

“(c) EXPLOITATION INCENTIVES.—

“(1) IN GENERAL.—

“(A) SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalties, or reduce the forfeiture on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the Arctic Slope Regional Corporation, and with the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under section 143(a) of the Alaska Native Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development and to ensure that the definitions of the Secretary the leases cannot be successfully operated under the terms provided therein.

“(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

“(13) by striking “in the event” and inserting the following:

“(C) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may:

“(2) by striking “in the event” and inserting the following:

“(D) SUSPENSION OF PAYMENTS.—I;

“(E) by striking the “thereto; and (11) all” and inserting “to the lease.”

“(20) by adding at the end the following:

“(1) INITIAL LEASE SALES.—The detailed;

“(1) by striking “section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 43 U.S.C. 1604)” and inserting “section 104(a)”;

“(13) by striking “waive administration of the lease” and inserting the following:

“(14) by striking “and lessee” and “and lessee” and inserting “the Secretary shall waive administration of the lease”;

“(15) by redesignating subparagraphs (A), (B), (C) as paragraphs (1), (2), and (3), respectively;

“(16) by striking “Any agency and inserting the following:

“(17) by striking “Any agency” and inserting the following:

“(18) by striking “(n) ENVIRONMENTAL IMPACT STATEMENTS.—

“(19) by striking “Any agency” and inserting the following:

“(20) by striking “Any agency” and inserting the following:

“(21) by striking “The Secretary shall issue regulations to implement this section.

“(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

“(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g))

“(a) the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the sub-surface estate is vested in the Arctic Slope Regional Corporation to manage the Reserve.

“(b) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land that is not covered by all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty, production, or the interest derived from oil or gas produced from or allocated to that portion;

“(ii) in a case described in clause (i), the Secretary of the Interior shall—

“(1) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

“(2) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

“(iii) the disaggregation of the lease described in clause (ii) has no effect on the obligations of the lessee under either of the resulting leases; including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

“(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.

“(c) CONFORMING AMENDMENTS.—Section 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) is amended—

“(1) by striking subsection (a); and

“(2) by redesignating clauses (b) through (d) as subsections (a) through (c), respectively.

SEC. 348. NORTH SLOPE SCIENCE INITIATIVE

(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary of the Interior shall establish a long-term initiative to be known as the “North Slope Science Initiative” (referred to in this section as the “Initiative”).

“(2) PURPOSE.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

“(b) OBJECTIVES.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

“(1) identify and prioritize information needs for inventory, monitoring, and research activities to assess the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

“(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

“(3) focus on priority needs for natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

“(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

“(5) identify priority needs not addressed by agency science programs in effect on the date of enactment of this Act and develop a funding strategy to meet those needs;

“(6) provide a consistent approach to high caliber science, including inventory, monitoring, and research;

“(7) maintain and improve public and agency access to—

“(A) accumulated and ongoing research; and

“(B) contemporary and traditional local knowledge; and

“(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

“(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

“(d) SCIENCE TECHNICAL ADVISORY PANEL.—

“(1) IN GENERAL.—The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

“(2) MEMBERSHIP.—The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professional and interest groups, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

“(e) REPORTS.—Not later than 3 years after the date of enactment of this section and each year thereafter, the Secretary shall publish a report that describes the studies and findings of the Initiative.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 349. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—Cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, redevelop, and reutilize, close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the

...
Department of the Interior and the Department of Agriculture.

(a) ACTIVITIES.—The program under subsection (a) shall—

(1) ensure a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental effects, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONFERENCES.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the States within which Federal land is located.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall complete a plan for carrying out the program under subsection (a).

(b) DOLLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned, abandoned, or idled wells are located, the Secretary—

(1) may authorize any lessee on an oil and gas lease on federally owned land to reclaim in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(2) shall develop a program to reimburse a lessee, based on credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that reimbursement program.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(1) may authorize any lessee on an oil and gas lease on federally owned land to reclaim in accordance with the Secretary’s standards—

(i) any orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(2) shall develop a program to provide reimbursement of 100 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credit against the Federal share of royalties or other means.

A NATIONAL CATALOG.—The system shall be—

(1) to provide technical and financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material, and

(2) to provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(c) REGULATIONS.—The Secretary may issue such regulations as are necessary to implement the program.

(f) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned, abandoned, or idled wells are located, the Secretary—

(1) may authorize any lessee on an oil and gas lease on federally owned land to reclaim in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(2) shall develop a program to reimburse a lessee, based on credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that reimbursement program.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(1) may authorize any lessee on an oil and gas lease on federally owned land to reclaim in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(2) shall develop a program to reimburse a lessee, based on credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that reimbursement program.

(a) SHORT TITLE.—This section may be cited as the ‘‘National Geological and Geophysical Data Preservation Program Act of 1992’’.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section.

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material;

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall estab-
archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this section shall not be less than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(b) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 1331 et seq.), or is an established under section 5 of the National Geographic Society, data on activities that were the subject of any advanced notice of proposed rulemaking described in this subsection.

(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

(d) RULEMAKINGS.—

(1) REQUIREMENTS.—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this section within 365 days after the date of enactment of this Act.

(2) GAS HYDRATE RESOURCES DEFINED.—Such regulations shall define the term “gas hydrate resources” to include both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

(e) REVIEW.—

(1) PRODUCTION INCENTIVE.—

(a) APPLICABILITY.—The term “production incentive” means the incentive applied to any eligible lease occurring on or after the date of publication of the advanced notice of proposed rulemaking.

(b) AMOUNT OF RELIEF.—The rulemaking shall provide for a suspension volume, which shall be equal to 5,000,000 barrels of oil equivalent for each eligible lease. Such suspension volume shall be applied to any production from an eligible lease occurring on or after the date of publication of the advanced notice of proposed rulemaking.

(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

(d) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(e) RULEMAKINGS.—

(1) REQUIREMENTS.—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this subsection within 365 days after the date of enactment of this Act.

(f) LIMITATION.—The Secretary may place limitations on the royalty reduction granted under this section based on market price.

(g) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(h) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Energy shall establish a competitive grant program to provide grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) PROJECTS.—

(i) the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(ii) a description of the project to be funded by the grant; and

(iii) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant.

(v) a description of a project to be funded by the grant; and

(vi) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) PARTNER.—An applicant for a grant under paragraph (1) may include in a joint application a project under a pilot program in partnership with one or more other public or private entities.

(4) SELECTION CRITERIA.—In evaluating applications submitted under this subsection, the Secretary of Energy shall—

(A) consider the experience with similar projects of each applicant; and

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is discontinued; and

(iv) minimize any adverse environmental effects from the project.
(5) DEMONSTRATION PROGRAM REQUIREMENTS.—
(A) MAXIMUM AMOUNT.—The Secretary of Energy shall not provide more than $3,000,000 in Federal assistance under this subsection to any applicant.
(B) COST SHARING.—The Secretary of Energy shall require cost-sharing under this subsection in accordance with section 988.
(C) PERIOD OF GRANTS.—
(i) IN GENERAL.—A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.
(ii) United States The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.
(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary of Energy shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested persons, including other applicants that submitted applications for a grant under this subsection.
(7) SCHEDULE.—
(A) PUBLIC NOTICE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish in the Federal Register a request for applications to carry out projects under this subsection.
(B) DATE FOR APPLICATIONS.—An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).
(C) SELECTION.—After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary of Energy shall, in a timely manner, select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.
(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.
SEC. 355. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.
(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—
(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;
(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;
(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—
(A) siting and facility configurations;
(B) environmental, operational, and safety considerations;
(C) the availability of technology;
(D) the effects on the utility system, including reliability;
(E) infrastructure and transport requirements;
(F) community support; and
(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2).
(4) The technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island facilities, and the effect of the displacement on the economic relationship described in paragraph (2), including—
(A) the availability of supply;
(B) the facility configuration for onshore and offshore liquefied natural gas receiving terminals;
(I) SECRETARY OF THE INTERIOR.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior, acting through the Chief of the Forest Service, shall enter into a memorandum of understanding with the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Commerce to ensure accurate and timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing.

(II) SECRETARY OF AGRICULTURE.—To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall:

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws;

(B) ensure consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(D) an employee who has expertise in the review of environmental permits; and

(E) post-lease restrictions, impediments, or other programs administered by the field offices identified in subsection (b) and (c).
shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

(2) Of the amounts deposited in the Treasury under paragraph (1)—

(A) percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

(B) percent shall be deposited in a special fund in the Treasury, to be known as the ‘BLM Permit Processing Improvement Fund’ (referred to in this subsection as the ‘Fund’).

(3) For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project office identified in section 36(d) of the Energy Policy Act of 2005.

(h) Transfer of funds.—For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Pilot Project office identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Forest Service;

(4) the Environmental Protection Agency;

(5) the Corps of Engineers; and

(6) the Bureau of Land Management, Montana, Colorado, Utah, and New Mexico.

(i) Fees.—During the period in which the Pilot Project is authorized, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.

(j) Savings provision.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 366. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

(2) DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

(A) notify the applicant that the application is complete; or

(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.

SEC. 367. FAIR MARKET VALUE DETERMINATIONS FOR LINEAR RIGHTS-OF-WAY ACROSS PUBLIC LANDS AND NATURAL FORESTS.

(a) UPDATE OF PERIOD SCHEDULE.—Not later than one year after the date of enactment of this section—

(1) the Secretary of the Interior shall update section 2806.20 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section, to revise the per acre rental fee schedule that specifies the rental fee for each linear right-of-way use to reflect current values of land in each zone; and

(2) the Secretary of Agriculture shall make the same revision to the per linear foot fee schedule issued, or renewed under title V of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1763 et seq.) on National Forest System land.

(b) FAIR MARKET VALUE RENTAL DETERMINATION FOR LINEAR RIGHTS-OF-WAY.—The fair market value rent of a linear right-of-way across public lands or National Forest System lands issued under section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) or section 28 of the Mineral Leasing Act (30 U.S.C. 185) shall be determined in accordance with subparagraph (a)(2) of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section (including the annual or periodic updates specified in the regulations) and as updated in accordance with subsection (a).

SEC. 368. ENERGY RIGHT-OF-WAY CORRIDORS ON PUBLIC LAND.

(a) WESTERN STATES.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, and the Secretary of the Interior (in this section referred to collectively as “the Secretaries”), in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of governments as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall—

(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the Western States; and

(b) DECLARATION OF POLICY.—Congress declares that it is the policy of the States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(c) LEASING PROGRAM FOR RESEARCH AND DEVELOPMENT OF OIL SHALE AND TAR SANDS.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 180 days after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (hereinafter referred to in this section as the “Secretary”) shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT AND COMMERCIAL LEASING PROGRAM FOR OIL SHALE AND TAR SANDS.—

(1) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested persons, shall jointly—

(A) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in States other than those described in subsection (a); and

(2) schedule prompt action to identify, design, and incorporate the corridors into the applicable land use plans.

(2) ONGOING RESPONSIBILITIES.—The Secretary, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested parties, shall establish procedures under their respective authorities that—

(1) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated as necessary; and

(2) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.

(3) CONSIDERATIONS.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

improve reliability;

relieve congestion; and

enhance the capability of the national grid to deliver electricity.

(e) SPECIFICATIONS OF CORRIDOR.—A corridor designated under this section shall, at a minimum, specify the centerline, width, and compatible uses of the corridor.

SEC. 369. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC UNCONVENTIONAL FUELS.

(a) SHORT TITLE.—This section may be cited as the “Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act.”

(b) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(c) LEASING PROGRAM FOR RESEARCH AND DEVELOPMENT OF OIL SHALE AND TAR SANDS.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 180 days after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (hereinafter referred to in this section as the “Secretary”) shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT AND COMMERCIAL LEASING PROGRAM FOR OIL SHALE AND TAR SANDS.—

(1) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with emphasis on
the most geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) Final Regulation.—Not later than 6 months after the date of enactment of this Act, the Secretary shall promulgate the final regulation as required by paragraph (1), the Secretary shall coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States; and (C) promote and coordinate Federal Government activities that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States; and (3) Leases may be for

192 acres; and

(B) Subsequent Reports.—The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the years following submission of the report provided for in subparagraph (A).

(i) Office of Petroleum Reserves.—

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States; and

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote appropriate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationship between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) Consultation and Coordination.—The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(3) Annual Reports.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection:

(A) Mineral Leasing Act Amendments.

(1) Section 17.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2), as amended by section 226(a)), is further amended by adding at the end the following:

(ii) No lease issued under this paragraph shall be included in any chargeability limitation associated with "shale" located east of the Mississippi River;

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) Geographic Areas.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are:

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of "shale" located east of the Missisipi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) Use of State Surveys and Universities.—In carrying out the assessment under paragraph (1), the Secretary shall request any assistance from any State- administered geological survey or university.

(a) Land Exchanges.

(i) In General.—To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are adjacent, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(ii) Public Lands.—The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uinta, Pinyon, Wasatch, Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary

(B) Subsequent Reports.—The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the years following submission of the report provided for in subparagraph (A).

(i) Office of Petroleum Reserves.—

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States; and

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote appropriate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationship between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) Consultation and Coordination.—The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(3) Annual Reports.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection:

(A) Mineral Leasing Act Amendments.

(1) Section 17.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2), as amended by section 226(a)), is further amended by adding at the end the following:

(ii) No lease issued under this paragraph shall be included in any chargeability limitation associated with "shale" located east of the Missisipi River;

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) Geographic Areas.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are:

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of "shale" located east of the Missisipi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) Use of State Surveys and Universities.—In carrying out the assessment under paragraph (1), the Secretary shall request any assistance from any State- administered geological survey or university.

(a) Land Exchanges.

(i) In General.—To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are adjacent, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(ii) Public Lands.—The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uinta, Pinyon, Wasatch, Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary
shall consider the geology of the respective basin in determining the optimum size of the lands to be consolidated.

(3) COMPLIANCE WITH SECTION 286 OF FLPMA.—A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(e) APPEARANCE OF UNCONVENTIONAL FUELS BY THE DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after subsection 141 of title 10, United States Code, the following: "$2398a. Procurement of fuel derived from coal, oil shale, and tar sands

(a) USE OF FUEL TO MEET DEFENSE NEEDS.—The Secretary of Defense shall use fuel produced from coal, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a ‘covered fuel’) that is extracted by either mining or in situ methods and refined or otherwise processed in the United States in order to meet the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) AUTHORITY TO PURCHASE.—The Secretary of Defense may enter into 1 or more contracts or other agreements for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

(c) CLEAN FUEL REQUIREMENTS.—A covered fuel shall be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) MULTIYEAR CONTRACT AUTHORITY.—Subject to applicable provisions of law, any contract entered into for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

(e) FUEL SOURCE ANALYSIS.—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive analysis of current and potential locations in the United States for the supply of covered fuel to the Department.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of title 10, United States Code, is amended by inserting after the item relating to section 2398 the following:

"2398a. Procurement of fuel derived from coal, oil shale, and tar sands."
Oil and gas resources are present, the Secretary shall immediately publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended by striking subsection (b) and inserting the following:

"(b) RESERVATION OF OIL AND GAS RIGHTS AND CONVEYANCE OF REMAINING MINERAL RIGHTS.—Subject to the limitations set forth in subsection (c), the United States hereby excepts and reserves from the provisions of subsection (a), all rights to oil and gas underlying such lands, along with the right to explore for, and produce the oil and gas under applicable law and such regulations as the Secretary of the Interior may prescribe. Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Secretary of the Interior shall convey the remaining mineral rights to the parties who as of the date of enactment of the Energy Policy Act of 2005 would be recognized as holders of a right, title, or interest to any portion of such minerals under the laws of the State of Louisiana, but for the interest of the United States in such minerals.

(c) OIL AND GAS RESOURCE ASSESSMENT AND REPORT.—The United States Geological Survey shall conduct a resource assessment and publish a report containing the findings of such resource assessment ("USGS Assessment and Report") within one year of the date of enactment of the Energy Policy Act of 2005. The USGS Assessment and Report shall include an assessment of the oil and gas resources underlying the certain lands in Livingston Parish, Louisiana, as described in section 103 (the 'Livingston Parish lands'). Upon a finding by the Secretary of the Interior based upon the USGS Assessment and Report that it is unlikely that economically recoverable oil and gas resources are present, the Secretary shall immediately publish a notice in the Federal Register banning the drilling, mining, or other development of oil and gas underlying such lands to the recipients, their successors, heirs, or assigns, of the consequences under subsection (a) of this section of the conveying of title thereto made within 180 days after a finding by the Secretary that it is unlikely that economically recoverable oil and gas resources are present."
January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.

(A) IN GENERAL.—The term ‘qualified Outer Continental Shelf revenues’ means all amounts received by the United States from each leased tract or portion of a leased tract—

(i) seaward of the zone covered by section 8(g); or

(ii) within that zone, but to which section 8(g) does not apply; and

(iii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of the coastal State; and

(B) INCLUSIONS.—The term ‘qualified Outer Continental Shelf revenues’ includes bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

(C) EXCLUSION.—The term ‘qualified Outer Continental Shelf revenues’ does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.

(A) IN GENERAL.—The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section $250,000,000 for each of fiscal years 2007 through 2010.

(B) DISBURSEMENT.—In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section.

(C) ALLOCATION AMONG PRODUCING STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

(C) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within the area of influence of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

(i) the nearest point on the coastline of the producing State; and

(ii) the geographic center of the leased tract.

(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

(11) APPROVALS TO COASTAL POLITICAL SUBDIVISIONS.—

(A) IN GENERAL.—The Secretary shall approve a plan submitted under paragraph (1) if—

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

(ii) the plan contains—

(aa) the name of a contact person; and

(bb) a description of how any amounts of the coastal political subdivision will use amounts provided under this section.

(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

(ii) the plan contains—

(aa) the name of a contact person; and

(bb) a description of how any amounts of the coastal political subdivision will use amounts provided under this section.

(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of paragraphs (A)(ii)(I) and (D) of section 384(f), the State of Louisiana shall include in the amount of revenue to be allocated to each producing State based on the ratio that—

(i) the number of miles of coastline of the producing State; bears to

(ii) the number of miles of coastline of all producing States.

(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of paragraphs (A) and (D) of section 384(f), the Secretary shall allocate the undisbursed amount equally among all producing States.

(4) NO APPROVED PLAN.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which no approved plan under paragraph (1) has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount of outer Continental Shelf revenues received under this section, including any amount deposited in a trust fund that is administered by the Secretary for coastal political subdivisions and dedicated to uses consistent with this section, in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(1) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

(2) Mitigation of damage to fish, wildlife, or natural resources.

(3) Planning assistance and the administrative costs of complying with this section.

(4) Implementation of a federally-approved coastal comprehensive conservation management plan.

(5) Mitigation of the impact of outer Continental Shelf activities through funding of on-shore infrastructure projects and public service needs.

(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall disburse any additional amount under this section to the producing State or coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

(3) AUTHORIZED USES.—Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any fiscal year shall be used for the purposes described in paragraphs (B) and (C) of paragraph (1).

SEC. 385. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) INCLUSIONS.—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;
Section 386. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas exploration, development, or offshore drilling in or under one or more of the Great Lakes.

Section 387. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 133(b) of the Energy Policy Act of 1992 (42 U.S.C. 1336(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 133(b).

Section 388. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF AUTHORITY ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

(1) by inserting at the end the following paragraph:

"(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—(1) The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 5101 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 5101 et seq.), or other applicable law, if those activities—

(A) support exploration, development, production, or natural gas storage, that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

(B) support transportation of oil or natural gas, excluding shipping activities;

(C) produce or support production, transportation, or conversion of energy from sources other than oil and gas; or

(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities designed or constructed for use for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;"

(2) by inserting at the end the following subsection:

"(O) a request for a proposal has been issued by the Secretary or another public authority;"

(b) ACTIVITIES DESCRIBED.—(1) Offshore activities described in subparagraph (B) of paragraph (1) of subsection (a) shall include—

(A) a request for a proposal has been issued by the Secretary or another public authority; and

(2) Oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

(3) LEASE DURATION, SUSPENSION, AND CANCELLATION.—(A) The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

(B) The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

(C) provide for the restoration of the lease, easement, or right-of-way.

(C) COORDINATION AND CONSULTATION WITH Affected State and LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

(D) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2001, the Secretary, in consultation with the Secretaries of Defense, Agriculture, and State and other relevant Federal and State agencies, shall issue regulations establishing the requirements for the lease, easement, or right-of-way under this subsection.

(E) EFFECT OF SUBSECTION.—Nothing in this subsection supersedes, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

(F) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exclusive economic zone of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

(b) FEDERAL AND STATE MANAGEMENT INITIATIVE.—(1) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretaries of Agriculture and Transportation, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities on the outer Continental Shelf.

(2) REQUIREMENTS.—The Secretary shall ensure that the digital mapping initiative is carried out in a manner that provides for—

(A) safety;

(B) protection of the environment;

(C) preservation of scientific data;

(D) conservation of the natural resources of the outer Continental Shelf;

(E) coordination with relevant Federal agencies;

(F) protection of national security interests of the United States;

(G) protection of correlative rights in the outer Continental Shelf;

(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

(J) consideration of—

(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

(ii) any other use of the sea or seabed, including use for a fishery, a seamount, a potential site of a deep-sea mining operation, or other authorized marine-related purposes, facilities designed or constructed for use for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;"

(c) FEDERAL COALBED METHANE REGULATION.

(i) an offshore test facility has been constructed; or

(ii) a request for a proposal has been issued by a public authority;"
document was approved within five (5) years prior to the date of spudding the well.

(4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within five (5) years prior to the date of placement of the pipeline.

(5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

Subtitle II—Refinery Revitalization
SEC. 301. FINDINGS AND DEFINITIONS.
(a) FINDINGS.—Congress finds that—

(1) it serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstock products currently exceeds the country's petroleum refining capacity to produce such products;

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products;

(3) this excess demand has been met with increased imports;

(4) due to lack of capacity, refined petroleum product imports are expected to grow from 7.9 percent to 10.7 percent of total refined product by 2025;

(5) refiners are still subject to significant environmental regulations and face several new requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) over the next decade; and

(6) better coordination of Federal and State regulations and enforcement can help facilitate siting and construction of new refineries to meet the demand in the United States for refined products.

(b) DEFINITIONS.—In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) STATE.—The term "State" means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

SEC. 302. FEDERAL-STATE REGULATORY COORDINATION AND ASSISTANCE.
(a) IN GENERAL.—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Petroleum Refining Environmental permits for a new refinery.

(b) AUTHORITY UNDER AGREEMENT.—The Administrator shall be authorized to—

(1) enter into a consolidated application for all permits required from the Environmental Protection Agency, to the extent consistent with other applicable law;

(2) enter into memoranda of agreement with other Federal agencies to coordinate consideration of refinery applications and permits among Federal agencies; and

(3) enter into a memorandum of agreement with a State, under which Federal and State review of refinery permit applications will be coordinated and concurrently considered, to the extent practicable.

(c) STATE ASSISTANCE.—The Administrator is authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

(d) OTHER ASSISTANCE.—The Administrator is authorized to provide technical, legal, or other assistance to State governments to facilitate their review of applications to build new refineries.

TITLE IV—COAL
Subtitle A—Clean Coal Power Initiative
SEC. 401. AUTHORIZATION OF APPROPRIATIONS.
(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) REPORT.—The Secretary shall submit to Congress a report required by this subsection no later than March 31, 2007. The report shall include, with respect to subsection (a), a plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in Government Accountability Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.
(a) IN GENERAL.—To be eligible to receive assistance under this subtitle, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.
(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In general, to be eligible for assistance—

(i) the energy system shall be designed, and reasonably expected, to achieve the levels of efficiency, environmental performance, and cost competitiveness specified in paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section;

(ii) any gasification technologies shall be capable of producing a concentrated stream of carbon dioxide; and

(iii) the gasification system shall be able to meet the requirements of paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section.

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(ii) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(iii) IN GENERAL.—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to meet the requirements of subsections (a), (b), or (c), as applicable;

(II) to emit not more than .05 lbs of NOx, per million Btu;

(III) to meet the requirements of subsections (a), (b), or (c), as applicable;

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(iv) organizations representing consumers.

(3) CONSULTATION.—Before setting the technical criteria for clean coal power initiative projects under paragraph (1)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) industries using coal;

(c) FINANCIAL CRITERIA.
(1) IN GENERAL.—Before setting the technical criteria for clean coal power initiative projects under paragraph (1)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) industries using coal; and

(2) AUTHORITY UNDER AGREEMENT.

(a) IN GENERAL.—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Petroleum Refining Environmental permits for a new refinery.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.
(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In general, to be eligible for assistance—

(i) the energy system shall be designed, and reasonably expected, to achieve the levels of efficiency, environmental performance, and cost competitiveness specified in paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section;

(ii) any gasification technologies shall be able to meet the requirements of paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section.

(iii) the gasification system shall be able to meet the requirements of paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section.

(2) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(ii) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(iii) IN GENERAL.—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to meet the requirements of subsections (a), (b), or (c), as applicable;

(II) to emit not more than .05 lbs of NOx, per million Btu;

(III) to meet the requirements of subsections (a), (b), or (c), as applicable;

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(iv) organizations representing consumers.

(3) CONSULTATION.—Before setting the technical criteria for clean coal power initiative projects under paragraph (1)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) industries using coal; and

(c) FINANCIAL CRITERIA.
(1) IN GENERAL.—Before setting the technical criteria for clean coal power initiative projects under paragraph (1)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) industries using coal; and

(2) AUTHORITY UNDER AGREEMENT.

(a) IN GENERAL.—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Petroleum Refining Environmental permits for a new refinery.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.
(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In general, to be eligible for assistance—

(i) the energy system shall be designed, and reasonably expected, to achieve the levels of efficiency, environmental performance, and cost competitiveness specified in paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section;

(ii) any gasification technologies shall be able to meet the requirements of paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section.

(iii) the gasification system shall be able to meet the requirements of paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) of this section.

(2) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(ii) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(iii) IN GENERAL.—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to meet the requirements of subsections (a), (b), or (c), as applicable;

(II) to emit not more than .05 lbs of NOx, per million Btu;

(III) to meet the requirements of subsections (a), (b), or (c), as applicable;

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(iv) organizations representing consumers.
The dissemination of information that (chapter 5 of title 5, United States Code) against Secretary may provide appropriate protectionsceeding 5 years after completion of the oper-
nation that is privileged or con-
demonstrations, and (b) the Secretaryshall require as a condition of receipt of
program; and
extension of the time period established for the
award grants under this section to institutions of
Figure 7. Clean Coal Technologies
SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.
(a) In general.—As part of the clean coal
power initiative, the Secretary shall award com-
petitive, merit-based grants to institutions of
of energy for systems of the fut-
(b) In determining the level of the grant,
the Secretary determines to be appropriate.
(2) CONDITION OF FINANCIAL ASSISTANCE.—The Secretary shall require as a condition of receipt
of any assistance under this subsection that
the recipient of the assistance enter into an
agreement with the Secretary not to request an
extension of the time period established for the
project under subparagraph (A).
SEC. 408. EXTENSION OF TIME PERIOD.
(A) In general.—Subject to subparagraph
(B), the Secretary may extend the time period
determined in the sole discretion of the
Secretary, that the owner or operator of the project
cannot complete the construction or demonstra-
tion project within the time period due to
limitations to the control of the owner or operator.
(B) LIMITATION.—The Secretary shall not
extend the time period under subparagraph (A) by
more than 4 years.
SEC. 417. DEPARTMENT OF ENERGY TRANSPOR-
tation fuels, and other transportation fuels,
not forthwith, and (2) taking into account the needs
and capacities of the borrower and the pre-
vailing rate of interest for similar loans made by
public and private lenders.
SEC. 411. INTEGRATED COAL/RENEWABLE EN-
ERGY SYSTEM.
(a) In general.—Subject to the availability of
appropriations, the Secretary may provide loan
guarantees for a project to produce energy from
cost of the demonstration project.
SEC. 419. WESTERN INTEGRATED COAL GASIFI-
CATION DEMONSTRATION PROJECT.
(a) In general.—Subject to the availability of
appropriations, the Secretary shall carry out a
project to demonstrate production of energy from
coal mined in the western United States
using integrated gasification combined cycle
technology (referred to in this section as the
“demonstration project”).
SEC. 413. WESTERN INTEGRATED COAL GASIFI-
CATION DEMONSTRATION PROJECT.
(a) In general.—Subject to the availability of
appropriations, the Secretary shall carry out a
project to demonstrate production of energy from
coal mined in the western United States
using integrated gasification combined cycle
technology (referred to in this section as the
“demonstration project”).
(b) REQUIREMENTS.
(1) Borrower.—The term “borrower” means
the owner of the clean coal technology plant.
(2) Technical criteria described in section 402(b) shall apply to the fac-
dility.
SEC. 410. INTEGRATED COAL/RENEWABLE EN-
ERGY SYSTEM.
(a) In general.—Subject to the availability of
appropriations, the Secretary may provide loan
guarantees for a project to produce energy from
cost of the demonstration project.
(b) In determining the level of the grant,
the Secretary determines to be appropriate.
(2) the status of projects funded under this
subsection.
SEC. 406. COAL PLANTS.
(a) In general.—As part of the clean coal
power initiative, the Secretary shall award com-
petitive, merit-based grants to institutions of
"..."
manufactured from Illinois basin coal, including the capital modification of existing facilities and the construction of testing facilities under subsection (b).

(2) ELIGIBLE PROJECTS.—For the purpose of evaluating the commercial and technical viability of different processes for producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal, the Secretary shall construct a test center to evaluate and confirm liquid and gas products from syngas catalysis in order that the system has an output of at least 500 gallons of Fischer-Tropsch transportation fuel per day in a 24-hour operation.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(1) may include—

(1) equipment or processes previously supported by a Department of Energy program;

(2) advanced combustion equipment and processes that the Secretary determines will be cost-effective and could substantially contribute to meeting environmental or energy needs, including gasification, gasification fuel cells, gasification-oxidation combustion techniques, ultra-supercritical boilers, and chemical looping;

(3) hybrid gasification/combustion systems, including systems integrating fuel cells with gasification or combustion units.

(b) CRITERIA.—The Secretary shall establish criteria for the selection of generation projects under section 3102(a)(2), which may include—

(1) prioritization of projects whose installation is likely to result in lower emissions rates of pollution;

(2) prioritization of projects whose installation is likely to result in lower emission rates of electricity.

Title XXXI—Clean Air Coal Program

SEC. 3101. PURPOSES.

The purposes of this title are—

(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

(2) mitigate financial risks, reduce the cost of clean coal generation, and increase the marketplace acceptability of clean coal generation and pollution control equipment and processes; and

(3) facilitate the environmental performance of electric power generation.

SEC. 3102. AUTHORIZATION OF PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program of financial assistance to—

(1) facilitate the production and generation of coal-based power, through the deployment of clean coal electric generating equipment and processes that, compared to equipment or processes that are in operation on a full scale—

(A) improve—

(i) energy efficiency; or

(ii) environmental performance consistent with relevant Federal and State clean air requirements, including those promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) are not yet cost-competitive; and

(2) facilitate the utilization of existing coal-based electricity generation plants through projects that—

(A) deploy advanced air pollution control equipment and processes;

(B) are designed to voluntarily enhance environmental performance above current applicable obligations under the Clean Air Act and State implementation efforts pursuant to such Act.

(b) FINANCIAL CRITERIA.—As determined by the Secretary for a particular project, financial assistance under this title shall be in the form of—

(1) cost-sharing of an appropriate percentage of the total project cost, not to exceed 50 percent as calculated under section 988 of the Energy Policy Act of 2005; or

(2) financial assistance, including grants, cooperative agreements, or loans as authorized under this Act or any other statutory authority of the Secretary.

SEC. 3103. GENERATION PROJECTS.

(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(1) may include—

(1) equipment or processes previously supported by a Department of Energy program;

(2) advanced combustion equipment and processes that the Secretary determines will be cost-effective and could substantially contribute to meeting environmental or energy needs, including gasification, gasification fuel cells, gasification-oxidation combustion techniques, ultra-supercritical boilers, and chemical looping;

(3) hybrid gasification/combustion systems, including systems integrating fuel cells with gasification or combustion units.

(b) CRITERIA.—The Secretary shall establish criteria for the selection of generation projects under section 3102(a)(2), which may include—

(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas; and

(2) prioritization of projects whose installation is likely to result in lower emission rates of electricity.

(3) projects designed to allow the use of the waste byproducts or other byproducts of the equipment.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)—

(1) $250,000,000 for fiscal year 2007;

(2) $250,000,000 for fiscal year 2008; and

(3) $250,000,000 for each of fiscal years 2009 through 2012; and

(4) $300,000,000 for fiscal year 2013.

(d) APPLICABILITY.—No technology, or level of emission reduction shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under section 3102(a)(1).

SEC. 3104. AIR QUALITY ENHANCEMENT PROGRAM.

(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(2) shall—

(1) utilize technologies that meet relevant Federal and State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501); or

(2) utilize equipment or processes that exceed relevant Federal or State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501); or

(3) projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas or substantially reduce the emission levels of criteria pollutants and mercury air emissions; and

(4) projects for pollution control that result in the mitigation or collection of more than 1 pollutant; and

(5) projects designed to allow the use of the waste byproducts or other byproducts of the equipment.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)—

(1) $300,000,000 for fiscal year 2007;

(2) $300,000,000 for fiscal year 2008; and

(3) $300,000,000 for fiscal year 2011.

(d) APPLICABILITY.—No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purposes of Section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act.
(42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under section 3102(a)(2).

(2) T A B L E OF CONTENTS—AMENDMENT.

The table of contents of the Energy Policy Act of 1992 (42 U.S.C. of act 13291) is amended by adding at the end the following:

“(TITLE XXXI)—CLEAN AIR COAL PROGRAM

...”.

SECTION 430. APPROVAL OF LOGICAL MINING UNITS.

(a) Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202(a)) is amended—

(i) in the first sentence, by striking “Any person”—

(ii) in the second sentence, by striking “The Secretary” and inserting the following:—

“(A) except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person—

[(B) in the second sentence, by striking “The Secretary” and inserting the following:—

“...”.

(b) Section 2(a) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking “to the extent that the advance royalties have not been used to reduce production royalties for a prior year.”.

SEC. 435. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATIONS AND RECLAMATION PLAN.

(a) Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking “and not later than three years after a lease is issued.”.

(b) The Secretary may waive any requirement that a lessee submit a reclamation plan for the purpose of—

(1) establishing a bond or other financial assurance for non藐视ed coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid instalment payments;

(2) The Secretary may require that a lessee guarantee payment of deferred bonus bid instalments with respect to any coal lease issued on or after the date of the enactment of this Act; and

(c) Nothing in this section, by not later than 2 years after the date of the enactment of this Act.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) In general.—There is established within the Department of Energy (42 U.S.C. 7131 et seq.) an Office of Indian Energy Policy and Programs referred to in this section as the ‘Office’. The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Duties of Director.—The Director, in accordance with Federal standards governing Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, and delivery programs of the Department that—

(1) promote Indian tribal energy development, efficiency, and use;

(2) reduce or stabilize energy costs;

(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification;

(4) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prev. 7101) is amended—

(A) in the item relating to section 209, by striking “Section” and inserting “Sec.”; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

“...”.

“SEC. 213. Establishment of policy for National Nuclear Security Administration

“Sec. 214. Establishment of security, counterintelligence, and intelligence policies...”.

“SEC. 215. Office of Counterintelligence...”.

H6736 CONGRESSIONAL RECORD—HOUSE July 27, 2005
‘‘Sec. 216. Office of Intelligence ‘‘Sec. 217. Office of Indian Energy Policy and Programs’’.

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item related to the Director General of the Department of Energy the following new item: ‘‘Director, Office of Indian Energy Policy and Programs, Department of Energy.’’.

**TITLE XXVI—INDIAN ENERGY**

**SEC. 2601. DEFINITIONS.**

‘‘In this title: ‘‘(1) The term ‘Director’ means the Director of the Office of Indian Energy Policy and Programs— ‘‘(ii) has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602. ‘‘(12) The term ‘tribal land’ means any land or interest in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States. **‘‘SEC. 2602. FEDERAL TRIBAL ENERGY RESOURCE DEVELOPMENT.**

‘‘(a) DEPARTMENT OF THE INTERIOR PROGRAM. ‘‘(7) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development organization consisting of Indian tribes and tribal energy resource development organizations in achieving the purposes of this title. ‘‘(2) In carrying out the Program, the Secretary shall— ‘‘(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to maintain properly accessible for resulting energy production and revenues. ‘‘(B) provide grants to Indian tribes and tribal energy resource development organizations for use in cooperation with the integration of energy resources, and to process, use, or develop those energy resources, on Indian land; ‘‘(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources; and ‘‘(D) provide grants and technical assistance to an appropriate tribal environmental organization, as determined by the Secretary, that represents multiple Indian tribes to establish a national resource center to develop tribal capacity to establish and carry out tribal environmental programs in support of energy-related programs and activities under this title, including— ‘‘(i) training programs for tribal environmental officials, program managers, and other governmental representatives; ‘‘(ii) the development of model environmental policies and tribal laws, including tribal environmental review codes, and the creation and maintenance of model and best environmental management practices; and ‘‘(iii) recommended standards for reviewing the implementation of tribal environmental laws and policies in tribal judicial or other tribal appeals systems. ‘‘(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

‘‘(b) DEPARTMENT OF ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM. ‘‘(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and policies within tribal jurisdictional or other tribal appeals systems. ‘‘(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out— ‘‘(A) energy, energy efficiency, and energy conservation projects; ‘‘(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal siting and permitting assistance to promote electrification of homes and businesses on Indian land; ‘‘(C) planning, construction, development, operation, or management of tribal electric generating facilities or facilities designed to promote the electrification of homes and businesses on Indian land; and ‘‘(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities. ‘‘(3) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including— ‘‘(i) geologic sequestration; ‘‘(ii) forest sequestration; ‘‘(iii) agricultural sequestration; and ‘‘(iv) any other sequestration opportunities the Director considers to be appropriate. ‘‘(B) The activities carried out under subparagraph (A) shall— ‘‘(i) be coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy; ‘‘(ii) use consistent methods with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on Indian land; and ‘‘(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes. **‘‘(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection. ‘‘(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director). ‘‘(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate. ‘‘(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection. ‘‘(6) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2006 through 2016.

‘‘(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM. ‘‘(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 610a)) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development. ‘‘(2) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate. ‘‘(3) A loan guarantee under this subsection shall be made by— ‘‘(A) a financial institution subject to examination by the Secretary of Energy; or ‘‘(B) an Indian tribe, from funds of the Indian tribe. ‘‘(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000. ‘‘(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

‘‘(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended. ‘‘(7) Not later than 1 year after the date of enactment of this section, the Secretary of Energy shall report to Congress on the financing requirements of Indian tribes for energy development on Indian land.
(d) **Preference.**—

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource development enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

(2) In carrying out this subsection, a Federal agency or department shall not—

(A) pay more than the prevailing market price for an energy product or byproduct; or

(B) obtain less than prevailing market terms and conditions.

**SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE REGULATION.**

(a) **Grants.**—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

(b) **Use of funds.**—Funds from a grant provided under this section may be used—

(1) (A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

(C) by an Indian tribe (other than an Indian tribe in the State of Alaska, except the Metlakatla Indian Community) for—

(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

(ii) the development of technical infrastructure to protect the environment under applicable law; or

(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

(2) by an Indian tribe for the training of employees that—

(A) are engaged in the development of energy resources on Indian land; or

(B) are responsible for protecting the environment.

(c) **Other Assistance.**—

(1) In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the reservation of an Indian tribe, the Secretary shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources on Indian land.

(2) The Secretary may carry out paragraph (1)—

(A) directly, through the use of Federal officials; or

(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

**SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.**

(a) **Leases and Business Agreements.**—In accordance with this section—

(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

(A) exploration for, extraction of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

(B) construction or operation of—

(i) a transmission, or distribution facility located on tribal land; or

(ii) a facility to process or refine energy resources developed on tribal land; and

(2) a lease or business agreement described in paragraph (1) shall not require review by or the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if—

(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e); and

(B) the term of the lease or business agreement does not exceed—

(i) 30 years; or

(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

(b) **Rights-of-Way for Pipelines or Electric Transmission or Distribution Lines.**—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without review or approval by the Secretary—

(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e); and

(2) the term of the right-of-way does not exceed 30 years.

(c) **Renewals.**—A lease or business agreement entered into, or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

(d) **Validity.**—No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is included in an Indian tribe’s tribal energy resource agreement approved by the Secretary under subsection (e).

(e) **Tribal Energy Resource Agreements.**—

(1) On the date on which regulations promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

(2) (A) Not later than 270 days after the date on which the Secretary receives a revised tribal energy resource agreement submitted pursuant to paragraph (1), the Secretary shall—

(i) determine whether the revised tribal energy resource agreement described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of section (e)(2)); and

(ii) if the Secretary determines to be in the best interest of the Indian tribe, the Secretary may approve or disapprove the tribal energy resource agreement.

(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

(A) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way; and

(B) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

(III) address amendments and renewals;

(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

(V) address technical or other relevant requirements;

(VI) establish requirements for environmental review in accordance with subparagraph (C); and

(VII) ensure compliance with all applicable environmental laws, including a requirement that each lease, business agreement, and right-of-way state that the lessee, operator, or right-of-way grantee shall comply with all such laws;

(VIII) identify final approval authority;

(IX) provide for public notification of final approvals; and

(X) establish a process for consultation with any affected States regarding off-reservation impacts, if any, identified under subparagraph (C).

(3) **Revisions.**—If the Secretary determines that the provision to be material, the Secretary may suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe.

(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations promulgated under paragraph (8); and

(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary under paragraph (3)(B).

(XV) specify the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in implementation of the tribal energy resource agreement, including environmental review of individual projects; and

(XVI) in accordance with the regulations promulgated by the Secretary under paragraph (8), require that the Indian tribe, as soon as practicable after receipt of a notice by the Indian tribe, give written notice to the Secretary and—

(aa) any breach or other violation by another party of any provision in a lease, business agreement, or right-of-way entered into under the tribal energy resource agreement; and

(bb) any activity or occurrence under a lease, business agreement, or right-of-way that constitutes a violation of Federal or tribal environmental laws.

(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for, at a minimum—

(i) the identification and evaluation of all significant environmental effects (as compared to a no-action alternative), including effects on cultural resources;
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"(ii) the identification of proposed mitigation measures, if any, and incorporation of appropriate mitigation measures into the lease, business agreement, or right-of-way;"

(3) Notice to the Secretary—

"(i) the public is informed of, and has an opportunity to comment on, the environmental impacts of the proposed action; and"

(II) administrative support and technical capability to carry out the environmental review process; and

(v) oversight by the Indian tribe of energy development activities by any other party under any lease, business agreement, or right-of-way entered into pursuant to the tribal energy resource agreement, to determine whether the activities are in compliance with the tribal energy resource agreement and applicable Federal environmental laws.

(A) A tribal energy resource agreement between the Secretary and an Indian tribe under this subsection shall include—

(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources under the tribal energy resource agreement; and

(ii) a provision for review, evaluation, or an investigation, by the Secretary of any breach or violation described in a notice provided by the Indian tribe to the Secretary in accordance with subparagraphs (B) and (C) of this paragraph, or by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take actions determined by the Secretary to be necessary to protect the asset, including reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and any condition that caused the jeopardy are corrected.

(B) Subject to the provisions of subsection (a)(5), the Secretary shall retain all rights to appeal under a lease, business agreement, or right-of-way executed pursuant to an approved tribal energy resource agreement.

(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the interests and rights of an Indian tribe are protected if—

(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the terms of any lease, business agreement, or right-of-way entered into under this section, or

(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

(D)(i) In this subparagraph, the term ‘negotiated term’ means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with any tribal energy resource agreement approved by the Secretary under paragraph (2).

(E) The Secretary approves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date on which the Secretary receives a petition under subparagraph (B), provide a written notice of the petition to the Secretary, after the expiration of the period described in clause (ii) of subparagraph (C) of section 2104 of title 25, United States Code.

(F) An Indian tribe described in subparagraph (E) shall provide to the Secretary a reasonable opportunity to obtain any information it considers necessary to determine whether the Indian tribe is not in compliance with the terms of the agreement.

(G) In carrying out this section, the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement, including—

(i) temporarily suspending any activity under a lease, business agreement, or right-of-way under this section until the Indian tribe is in compliance with the approved tribal energy resource agreement; or

(ii) rescinding approval of all or part of the tribal energy resource agreement, and if all of the agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or right-of-way described in subsection (a) or (b).

(H) Before taking any action described in subparagraph (D)(iii), the Secretary shall provide the Indian tribe with a written notice of the violations together with the written determination.

(i) written notice of the decision of the Secretary, including any Indian tribe to the Secretary in accordance with—

(ii) subject to any procedures required by subsection (a) or (b) of section 2104 of title 25, United States Code.

(ii) the identification of proposed mitigation measures, if any, and incorporation of appropriate mitigation measures into the lease, business agreement, or right-of-way;"

(4)(A) If the Secretary approves a tribal energy resource agreement submitted by an Indian tribe under paragraphs (1) or (2) of this subsection, the tribe shall, in accordance with the process and requirements under regulations promulgated under this paragraph, provide to the Secretary—

(i) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

(ii) Tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to ensure the terms of the agreement will be in the best interests of the Indian tribe under, the lease, business agreement, or right-of-way.

(6)(A) In carrying out this section, the Secretary shall—

(i) act in accordance with the trust responsibilities of the United States relating to mineral and other trust resources; and

(ii) act in good faith in the best interests of the Indian tribes.

(B) Subject to the provisions of subparagraphs (a)(C), (D), and (E) of section 2104 of title 25, United States Code, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the interests and rights of an Indian tribe are protected if—

(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the terms of any lease, business agreement, or right-of-way entered into under this section; or

(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

(D)(i) In this subparagraph, the term ‘negotiated term’ means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with any tribal energy resource agreement approved by the Secretary under paragraph (2).

(E) The Secretary approves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall, not later than 20 days after the date

(F) An Indian tribe described in subparagraph (E) shall retain all rights to appeal under any regulation promulgated by the Secretary.

(G) After not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary shall promulgate regulations that implement this subsection, including—

(i) except as otherwise provided by law, determining the capacity of an Indian tribe under paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

(ii) process and requirements in accordance with which an Indian tribe may—

(iii) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subchapter and enter into agreements with another tribe or any other person for transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

(iv) any regulations described final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

(i) any Federal environmental law;
“(d) AUTHORIZATION OF APPOINTMENTS.—
There are authorized to be appropriated to the Secretary such sums as may be necessary to make grants or provide other assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal electric resource agreements in accordance with this section.

SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) DEFINITIONS.—In this section—
(1) the term ‘Administrator’ means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration;
(2) the term ‘power marketing administration’ means—
(A) the Bonneville Power Administration;
(B) the Western Area Power Administration;
and
(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

(b) SCOPE OF STUDY.—
(1) An Administrator may provide technical assistance to Indian tribes seeking to use the firming and reserve requirements of the Western Area Power Administration to carry out this section $750,000, non-reimbursable, to remain available until expended.

SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.

(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary of Agriculture, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

(b) SCOPE OF STUDY.—The study shall—
(1) determine the economic and engineering feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers, including an assessment of the costs and benefits of blending wind energy and hydropower compared to current sources used for firming power to the Western Area Power Administration; and
(2) review historical and projected requirements for, patterns of availability and use of, and reasons for historical patterns concerning the availability of firming power.

(c) REPORT.—The Secretary of Energy shall submit to Congress a report that describes the results of the study prepared by the Western Area Power Administration cus-
tomer representative study team members; and
(6) incorporate, to the extent appropriate, the results of the Dakotas Wind Transmission study prepared by the Western Area Power Administration.

SEC. 2607. CONSULTATION WITH INDIAN TRIBES.

(a) STUDY.—
(1) An Administrator may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and
(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation and identify costs associated with these activities;
(5) include a tribal technical advisor and a Western Area Power Administration customer representative as study team members; and

(b) C ONFORMING AMENDMENTS.

(1) in subsection (a) 
(2) in the first sentence of each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;
(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and
(4) nonreimbursable.

(d) ADJUSTER FOR TRANSMISSION SYSTEM USE.

(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

SEC. 2608. INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.

(a) INDEMNIFICATION.—
(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);
(2) the promotion of shared savings contracts; and

(b) AMENDMENT.—Section 202 of the Native American Housing and Urban Development Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting “improvement to achieve greater energy efficiency” after “improving”.

TITLE VI—NUCLEAR MATTERS Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the “Price-Anderson Act Amendments of 2005.”

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. (of the Atomic Energy Act of 1954 (42 U.S.C. 2219(c)) is amended—
(1) in the subsection heading by striking “LI-
CENSES” and inserting “LICENSEES”; and


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Section 602. Department Liability Limit.

(a) Indemnification of Department Contractors.—Section 170 d. of the Atomic Energy Act of 1942 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

“(2) in the aggregate, for all persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under this section) for each nuclear incident, includ- ing any applicable financial protection required, in the amount of $100,000,000 to cover public liability arising out of or in connection with the contractual activity; and

(b) Contract Amendments.—Section 170 d. of the Atomic Energy Act of 1942 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:

“(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to cease the total amount of fees paid within any 1-year period (as determined by the Secretary) in accordance with the aggregate percentage change in the Consumer Price Index since:

(A) that date, in the case of the first adjustment under this paragraph; or

(B) the previous adjustment under this paragraph.”.

Section 606. Reports.

(a) General.—(1) The amendments made by sections 602, 603, 604, and 605 do not apply to a nuclear employee who is in a critical skill area related to the regulatory mission of the Commission, who is in a field of study that the Commission determines is in a critical skill area related to the Commission’s regulatory mission, or is in a graduate or professional degree program offered by an institution of higher education in the United States, and is enrolled in a program under which the Commission may carry out a program to—

(1) award fellowships to graduate students who—

“(A) are United States citizens; and

“(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the scholarship is awarded.

(2) FELLOWSHIP PROGRAM.—To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to the Commission’s regulatory mission, the Commission may carry out a program to—

(a) award fellowships to graduate students who—

“(A) are United States citizens; and

“(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the fellowship is awarded.

(b) REQUIREMENTS.—

“(1) IN GENERAL.—As a condition of receiving a scholarship or fellowship under subsection a., b., or C., a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

“(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

“(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance; and

“(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, reimburse the United States Government for amounts paid to the Commission for, or is issued by the Commission, for which the assistance was provided; and

“(D) if the recipient fails to meet the requirements of subparagraph a., b., or C., reimburse the United States Government for the full amount of the assistance provided to the recipient under the scholarship or fellowship; and

“(E) interest at a rate determined by the Commission.

“(2) WAIVER OR SUSPENSION.—The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

“(3) COMPETITIVE PROCESS.—Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1865a, 1865b).

“(c) DIRECT APPOINTMENT.—The Commission may appoint directly, without further competition or notice, individuals who—

“(1) received a scholarship or fellowship awarded by the Commission under this section; and

“(2) completed the academic program for which the scholarship or fellowship was awarded.

“(d) Table of Contents.—The table of contents of the Atomic Energy Act of 1942 (42 U.S.C. 2011 et seq.) is amended by adding after the last sentence.

Title B—General Nuclear Matters

Section 621. Licenses.

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

“from the authorization to commence operations after ‘forty years’."

Section 622. Nuclear Regulatory Commission Scholarship and Fellowship Program.

(a) In General.—Chapter 19 of the Atomic Energy Act of 1944 is amended by inserting after section 242 (42 U.S.C. 2215a) the following:

“Sec. 243. Scholarship and Fellowship Program.

“a. Scholarship Program.—To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

“(1) award scholarships to undergraduate students who—

“(A) are United States citizens; and

“(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the scholarship is awarded.

“(C) agree that failure to maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission, shall constitute grounds on which the Commission may terminate the assistance; and

“(D) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, reimburse the United States Government for amounts paid to or on behalf of the recipient for which the assistance was provided; and

“(E) interest at a rate determined by the Commission.

“(2) Waiver or Suspension.—The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

“(3) Competitive Process.—Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1865a, 1865b).

“(c) Direct Appointment.—The Commission may appoint directly, without further competition or notice, individuals who—

“(1) received a scholarship or fellowship awarded by the Commission under this section; and

“(2) completed the academic program for which the scholarship or fellowship was awarded.

“(d) Table of Contents.—The table of contents of the Atomic Energy Act of 1944 (42 U.S.C. 2011 et seq.) is amended by adding after the last sentence.

Title C—General Nuclear Matters

Section 625. Cost Recovery from Government Agencie.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(w)) is amended—

“(1) by striking ‘‘for or is issued’’ and all that follows through ‘‘Commission for, or is issued by the Commission’’;”.
SEC. 422. ELIMINATION OF PENNSYLVANIA OFFSET FOR CERTAIN REDIRED FEDERAL RETIREES.

(a) In General.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

SEC. 170C. ELIMINATION OF PENNSYLVANIA OFFSET FOR CERTAIN REDIRED FEDERAL RETIREES.

"a. In General.—The Commission may waive the application of section 3344 or 4606 of title 5, United States Code, on a case-by-case basis for employment of an annuitant—

"(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(2) when a temporary emergency hiring need exists.

"b. Procedures.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

"(1) criteria for any exercise of authority; and

"(2) procedures for a delegation of authority.

"c. Effect of Waiver.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code.

(b) Conforming Amendment.—The Erection section of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end of the items relating to chapter 14 the following:

"(Sec. 170C. Elimination of pension offset for certain retired Federal retirees.)"

SEC. 625. ANTI-TRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2235c(c)) is amended by adding at the end the following:

"(b) Antitrust review.—This subsection does not apply to any application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph."

SEC. 626. DECOMMISSIONING.

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

"(3) Procedures.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

"(1) criteria for any exercise of authority; and

"(2) procedures for a delegation of authority.

"c. Effect of Waiver.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code, on a case-by-case basis for employment of an annuitant—

"(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(2) when a temporary emergency hiring need exists.

"d. Procedures.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

"(1) criteria for any exercise of authority; and

"(2) procedures for a delegation of authority.

"e. Effect of Waiver.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code.

(b) Conforming Amendment.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end of the items relating to chapter 14 the following:

"(Sec. 170C. Elimination of pension offset for certain retired Federal retirees.)"

SEC. 630. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

"(1) in subsection a., by striking "a. In General.—Except as provided in subsection b., the Commission;"

"(2) in redesignating subsection b. as subsection c.;

"(3) by inserting after subsection a. the following:

"b. Medical Isotope Production—

"(1) Definitions.—In this subsection:

"(A) Highly Enriched Uranium.—The term "highly enriched uranium" means uranium enriched to include concentration of U-235 above 20 percent.

"(B) Medical Isotope.—The term 'medical isotope' includes Technetium 99, Iodine 131, Xenon 133, and other radioactive materials produced from a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

"(C) Radiopharmaceutical.—The term "radiopharmaceutical" means a radioactive isotope that—

"(i) contains byproduct material combined with chemical or biological material; and

"(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

"(D) Recipient Country.—The term 'recipient country' means Canada, Belgium, France, Germany, Italy, the Netherlands, the United Kingdom, and other recipients of highly enriched uranium.

"(E) Licenses.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate recipients) of medical isotopes from commercial sources that serve United States needs for such isotopes; and

"(F) the Commission; and

"(G) the Secretary; and

"(ii) contains the findings of the National Academy of Sciences made in the study under paragraph (A); and

"(3) Review of Physical Protection Requirements.—

"(A) In General.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

"(B) Imposition of Additional Requirements.—If the Commission determines that additional physical protection requirements are necessary including a limit on the quantity of highly enriched uranium that may be contained in a single shipment, the Commission shall impose such requirements as license conditions or through other appropriate means.

"(4) First Report to Congress.—

"(A) NAA Study.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

"(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

"(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

"(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

"(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuel cycle targets or the enrichment of highly enriched uranium.

"(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

"(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

"(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

"(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

"(5) Authorization of Appropriations.—

"(A) In General.—There is authorized to be appropriated to the Department of Energy and the Nuclear Regulatory Commission for carrying out this section—

"(B) Appropriations.—There is authorized to be appropriated to the Department of Energy and the Nuclear Regulatory Commission for carrying out this section—

"(C) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section..."
SEC. 631. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary shall provide for the establishment of a project in any country which the Secretary determines (i) is not able or unwilling to meet domestic demand; (ii) does not have a national disposal system available for use in the design or construction of nuclear reactor plants; (iii) has an identified need for the disposal of greater-than-Class C low-level radioactive waste; and (iv) has a commitment to make long-term financial arrangements for acceptance, storage, and disposal of the radioactive waste.(b) REQUIREMENTS.—

SEC. 632. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

SEC. 633. EMPLOYER BENEFITS.

Section 3120(a) of the Secure Privatization Act (42 U.S.C. 2297h-6(a)) is amended by adding at the end the following new paragraph:

SEC. 634. DEMONSTRATION HYDROGEN PRODUCTION AT EXISTING NUCLEAR POWER PLANTS.

(a) DEMONSTRATION PROJECTS.—The Secretary shall provide for the establishment of 2 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants.

(b) ECONOMIC ANALYSIS.—Prior to making an award under subsection (a), the Secretary shall submit to Congress a certification to that effect.

SEC. 635. PROHIBITION ON ASSUMPTION OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

(a) IN GENERAL.—No nuclear material or equipment that is permitted for transfer as of the date of enactment of this Act, or nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 of this Act and regulated under part 810 of title 10, Code of Federal Regulations, without application for a waiver, or nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported, reexported, retransferred, or reexported, under paragraph (2) without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

(b) PENALTIES FOR VIOLATIONS.—Any person who violates paragraph (1) shall be subject to—

SEC. 636. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.
(b) by striking paragraph (3); and
(c) in subsection (2) by striking paragraph (2)(A)(ii) and inserting a semicolon;

(2) REQUIREMENT FOR CONTRACTS.

(A) DEFINITION OF LOAN COST.

(i) the fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for the delay; and

(ii) the contractual price of power from the sponsor to use due diligence to shorten, and the delay covered by the contract.

(5) TYPES OF COVERED COSTS.

—Subject to paragraphs (2) and (4), the contract entered into under this section for an advanced nuclear facility shall include as covered costs those costs that result from a delay during construction and in gaining approval for fuel loading and full-power operation, including—

(A) principal or interest on any debt obligation of an advanced nuclear facility owned by a non-Federal entity; and

(B) the incremental difference between—

(i) the fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for the delay; and

(ii) the contractual price of power from the sponsor to use due diligence to shorten, and the delay covered by the contract.

(6) REQUIREMENTS.

Any contract between a sponsor and the Secretary covering an advanced nuclear facility under this section shall require the sponsor to use due diligence to shorten, and end, the delay covered by the contract.

(7) REPORTS.

For each advanced nuclear facility that is covered by a contract under this section, the Commission shall submit to Congress a report on the status of licensing actions associated with the advanced nuclear facility.

(g) REGULATIONS.

(1) IN GENERAL.

Subject to paragraphs (2) and (3), the Secretary shall issue such regulations as are necessary to carry out this section.

(2) INTERIM FINAL RULEMAKING.

—Not later than 270 days after the date of enactment of this Act, the Secretary shall issue for public comment an interim final rule regulating contracts authorized by this section.

(3) NOTICE OF FINAL RULEMAKING.

—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of final rulemaking regulating the contracts.

(h) AUTHORIZATION OF APPROPRIATIONS.

The amounts appropriated to be appropriated such sums as are necessary to carry out this section.

SEC. 638. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.

Section 170a of the Atomic Energy Act of 1954 (42 U.S.C. 2219a(b)) is amended by redesignating subsections (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking ‘‘The Commission’’ and inserting the following:

‘‘b. EVALUATION.

(1) IN GENERAL.—Except as provided in paragraph (2), the Nuclear Regulatory Commission;’’.

(3) by adding at the end the following:

‘‘(2) NUCLEAR REGULATORY COMMISSION.—Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy funded advanced nuclear facility. The Nuclear Regulatory Commission determines that—

‘‘(A) the conflict of interest cannot be mitigated; and

‘‘(B) the adequate justification exists to proceed without mitigation of the conflict of interest.’’

Subtitle C—Next Generation Nuclear Plant Project

SEC. 641. PROJECT ESTABLISHMENT.

(a) ESTABLISHMENT.

The Secretary shall establish a project to be known as the ‘‘Next Generation Nuclear Plant Project’’ (referred to in this subtitle as the ‘‘Project’’).

(b) CONTEXT.

The Project shall consist of the research, development, design, construction, and operation of a prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 942(d); and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) to generate electricity and to produce hydrogen.

SEC. 642. PROJECT MANAGEMENT.

(a) DEPARTMENTAL MANAGEMENT.

(1) IN GENERAL.

The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.

The Secretary may combine the Project with the Generation IV Nuclear Energy Systems Initiative.

(b) EXISTING OR PROJECT MANAGEMENT EXPERIENCE.

The Secretary shall utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(c) LEAD LABORATORY.

The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international research communities.

(d) INDUSTRIAL PARTNERSHIPS.

(A) IN GENERAL.

The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out the Project with the Secretary.

(B) COST-SHARING.

The Secretary shall be cost-shared in accordance with section 988.
(C) PREFERENCE.—Preference in determining the final structure of the consortium or any partnerships under this subtitle shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing additional funding responsibilities.

(3) PROTOTYPE PLANT SITING.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) DESIGN, CONSTRUCTION, AND OPERATIONAL AND SAFETY REQUIREMENTS.—The Project may use, if appropriate, facilities at other National Laboratories.

SEC. 643. PROJECT ORGANIZATION.

(a) MAJOR PROJECT ELEMENTS.—The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.

(2) Energy conversion technology development and validation.

(3) Nuclear fuel development, characterization, and qualification.

(4) Reactor and balance-of-plant design, engineering, and qualification.

(b) PROJECT PHASES.—The Project shall be conducted in the following phases:

(I) FIRST PROJECT PHASE.—A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5).

(II) SECOND PROJECT PHASE.—A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) through (5) of subsection (a);

(B) carry out a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen production facilities.

(c) PROJECT REQUIREMENTS.—(I) IN GENERAL.—The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the development of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(II) INTERNATIONAL COOPERATION.—

(A) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Idaho National Laboratory, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the International Energy Agency, or other international partnerships if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) ATTACHMENT NATIONS.—The Project may involve demonstration of selected project objectives in a partner country.

(D) GENERATION IV INTERNATIONAL FORUM.—The design, construction, and operational activities of the Project are coordinated with the Generation IV International Forum.

(E) REVIEW BY NUCLEAR ENERGY RESEARCH ADVISORY COMMITTEE.—

(i) The Secretary shall submit to Congress a report establishing an alternative date for making the selection.

(ii) The Secretary shall update the schedule and cost estimates for the Project and submit to Congress a report establishing an alternative date for making the selection.

(iii) The Secretary shall update the schedule and cost estimates for the Project and submit to Congress a report establishing an alternative date for making the selection.

(F) SYMMETRY, INTERCHANGE, AND FLEXIBILITY.—The Project shall incorporate a design that can be modularized and changed to accommodate future changes in technology, regulatory environment, and other factors.

(G) TRANSMITTAL OF REPORTS TO CONGRESS.—The Secretary shall transmit to Congress not later than 180 days after the date of enactment of this Act, the NERAC shall—

(i) update the schedule and cost estimates for the Project and submit to Congress a report establishing an alternative date for making the selection.

(ii) the appropriate committees of the Senate and the House of Representatives to the Secretary for research and construction activities under this subtitle, including for transfer to the Nuclear Regulatory Commission for activities under section 644 as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

Subtitle D—Nuclear Security

SEC. 651. NUCLEAR FACILITY AND MATERIALS SECURITY.

(a) SECURITY EVALUATIONS; DESIGN BASIS THREAT RULEMAKING.—(1) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1946 (42 U.S.C. 2011 et seq.) (as amended by section 624(a)) is amended by adding at the end the following:

“SEC. 170D. SECURITY EVALUATIONS. — (a) SECURITY RESPONSE EVALUATIONS.—Not later than once every 3 years, NRC shall conduct security evaluations at each licensed facility that is a part of a class of licensed facilities, as the Commission considers to be appropriate, to analyze the probability of a reasonable force of a licensed facility to defend against any applicable design basis threat.”

Not later than September 30, 2011, the Secretary shall—

(1) select the technology to be used by the Project to carry out high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

(2) submit to Congress a report establishing an alternative date for making the selection.

(3) DEVELOP COMPETITION FOR SECOND PROJECT PHASE.—

(I) IN GENERAL.—The Project shall be conducted in the following phases:

(A) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (1) through (4) of subsection (a);

(B) supplement the expertise of the NERAC or the appropriate committees of the Senate and the House of Representatives to the Secretary for research and construction activities under this subtitle, including for transfer to the Nuclear Regulatory Commission for activities under section 644 as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.
"b. FORCE-ON-FORCE EXERCISES.—(1) The security evaluations shall include force-on-force exercises.

(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

(3) In conducting a security evaluation, the Commission shall ensure that any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

"c. LICENSEE RELATIONSHIPS—The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

"d. FACILITIES UNDER HEIGHTENED THREAT LEVELS.—The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

"e. REPORT.—Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

**SEC. 170E. DESIGN BASIS THREAT RULEMAKING.**

a. RULEMAKING.—The Commission shall—

(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 180 days after the date of enactment of this section, and to revise the design basis threats of the Commission; or

(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking proceeding concerning the design basis threat.

b. FACTORS.—When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

(1) the terrorist threat of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from sympathizers or instigators;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack on a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(2) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) (as amended by subsection (c)(3)) is amended by adding at the end the following:

"SEC. 170F. RECRUITMENT TOOLS.

"The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.

(3) EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by subsection (a)(1)) is amended by adding at the end the following:

"SEC. 170G. EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION.

"The Commission may—

(1) pay transportation, lodging, and subsistence expenses of employees who—

(A) assist scientists, technical, administrative, or technical employees of the Commission; and

(B) are students in good standing at an institution of higher education; and

(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.

"SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION."

(1) 'NATIONAL SECURITY'—The term 'national security' includes the work of the Commission.

b. COMMISSION APPROVAL.—Not later than 180 days after the date of enactment of this section, the Commission shall issue regulations prohibiting a person from—

(1) operating a radiation source, unless the Commission has approved the operation under section 57 or 82, consistent with the Code of Conduct, with respect to the exported, that—
“(A) the recipient of the radiation source may receive and possess the radiation source under the laws and regulations of the country of the recipient; 

(B) the recipient country has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and 

(C) before the date on which the radiation source is shipped— 

(i) a notification has been provided to the recipient country; and 

(ii) a notification has been received from the recipient country; 

as the Commission determines to be appropriate; 

(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that— 

(A) the proposed recipient is authorized by law to receive the radiation source; and 

(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and 

(3) selling or otherwise transferring ownership of a radiation source, unless the Commission— 

(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and 

(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation. 

(d) P ENALTY. 

(A) Any person who— 

(i) violates a regulation under subsection (a), (b), or (c) of this section; 

(ii) is responsible for radiation source-related activities, or participates in radiation source-related activities, under foreign law; 

(iii) knowingly transacts business with a radiation source or nuclear material, or transfers ownership of or control over a radiation source or nuclear material; 

(iv) fails to correct an act or omission described in clauses (i) through (iii); or 

(v) knowingly violates a regulation or an order under this Act, shall be subject to criminal and civil and administrative penalties that may include a fine of not more than $1,000,000, imprisonment for not more than 5 years, or both. 

(B) Any person who— 

(i) violates a regulation under subsection (a), (b), or (c) of this section; 

(ii) is responsible for radiation source-related activities, or participates in radiation source-related activities, under foreign law; 

(iii) knowingly transacts business with a radiation source or nuclear material, or transfers ownership of or control over a radiation source or nuclear material; 

(iv) fails to correct an act or omission described in clauses (i) through (iii); or 

(v) knowingly violates a regulation or an order under this Act, and knowingly takes action, or fails to take action to prevent action that results in the violation of this Act or a regulation or order under this Act, shall be subject to criminal and civil and administrative penalties that may include a fine of not more than $1,000,000, imprisonment for not more than 5 years, or both. 

(C) Any person who— 

(i) violates a regulation under subsection (a), (b), or (c) of this section; 

(ii) is responsible for radiation source-related activities, or participates in radiation source-related activities, under foreign law; 

(iii) knowingly transacts business with a radiation source or nuclear material, or transfers ownership of or control over a radiation source or nuclear material; 

(iv) fails to correct an act or omission described in clauses (i) through (iii); or 

(v) knowingly violates a regulation or an order under this Act, and knowingly takes action, or fails to take action to prevent action that results in the violation of this Act or a regulation or order under this Act, shall be subject to criminal and civil and administrative penalties that may include a fine of not more than $1,000,000, imprisonment for not more than 5 years, or both. 

(V) The Director of National Intelligence (or a designee). 

(vi) The Secretary of Transportation (or a designee). 

(III) dispersability; 

(IV) chemical and material form; 

(V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for treatment; 

(VI) any other factor that the Chairperson of the Commission determines to be appropriate; 

(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources; 

(iii) the storage of radiation sources that are not used in a manner that may pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source. 

(3) The Commission shall submit to Congress the results of the study under paragraph (1).
Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(B) before, on, or after the date of enactment of this Act of Radium-226 to the public health and safety or the common defense and security; and

(2) AGREEMENTS WITH GOVERNORS.—Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended by striking “State”— and all that follows through paragraph (4) and inserting the following: “State:

(1) Byproduct materials (as defined in section 11 e.).

(2) Source materials.

(3) Special nuclear materials in quantities not sufficient to form a critical mass.

(3) WASTE DISPOSAL.—

(A) DOMESTIC DISTRIBUTION.—Section 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2111) is amended—

(i) by striking “No person may” and inserting the following:

“a. In General.—No person may”;

(ii) by adding at the end the following:

“b. REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (3) or (4) of section 11 e., disposed of in a disposal facility that

(A) is adequate to protect public health and safety;

and

“(B) is licensed by the Commission; or

“(ii) is licensed by a State that has entered into an agreement with the Commission under section 274 b., if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 11 e., at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

c. TREATMENT AS LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material, as defined in paragraphs (3) and (4) of section 11 e., disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021(b)); and

(2) A definition of low-level radioactive waste—

Section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021(b)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately; (ii) by striking clause (i) (as redesignated by subparagraph (A)) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”, and

(iii) by adding at the end the following:

“(B) EXCLUSION.—The term ‘low-level radioactive waste’ does not include byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e))).”.

(4) FINAL REGULATIONS.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Commission, after consultation with States and other appropriate Federal agencies, shall issue final regulations establishing such requirements as the Commission determines to be necessary to carry out this section and the amendments made by this section.

(ii) INCLUSIONS.—The regulations shall include a definition of the term ‘discrete source’ for purposes of paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(2) COOPERATING REGULATIONS—

Paras. 4. under regulation on the date of enactment of this Act.

(C) TRANSITION PLAN—

(i) DEFINITION OF BYPRODUCT MATERIAL.—In this paragraph, the term “byproduct material” has the meaning given the term in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(ii) PREPARATION AND PUBLICATION.—To facilitate an orderly transition to regulatory authority with respect to byproduct material, the Commission, in issuing regulations under subparagraph (A), shall prepare and publish a transition plan for—

(1) States that have not, before the date on which the plan is published, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e));

(2) States that have entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)), entered into the Commission and, in issuing regulations under subparagraph (A), shall prepare and publish a transition plan for—

(1) States that have not, before the date on which the plan is published, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

(II) any other matter for a period ending after the date that is 1 year after the date of enactment of this Act; or

(2) COMPATIBILITY WITH STATE LAW—

(a) IN GENERAL.—The Commission may grant a waiver to any entity of any requirement under paragraph (1) if the Commission determines that—

(III) any other matter for a period ending after the date that is 4 years after the date of enactment of this Act.

(b) Waivers to States.—The Commission shall terminate any waiver granted to a State under subparagraph (A) if the Commission determines that—

(II) a matter relating to an importation into, or exportation from, the United States for a period ending on the date that is 1 year after the date of enactment of this Act of an agreement described in subparagraph (A) in a period ending after the date that is 4 years after the date of enactment of this Act.

(c) OTHER MATTERS.—The Commission shall publish in the Federal Register a notice of any waiver granted under this subsection.

SEC. 652. FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS.

Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2156) is amended—

(A) by striking “a. The Nuclear” and all that follows through “section 147.” and inserting the following:

“(A) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date of enactment of this Act, is permitted access under subparagraph (B).

(II) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission; and

(III) have other matter for an individual or entity that is engaged in a activity subject to regulation by the Commission; or

(III) have other matter for a period ending after the date that is 1 year after the date of enactment of this Act; or

(2) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under such paragraph.

(2) The Commission shall require to be fingerprinted any individual who—

(i) is permitted unescorted access to—

(II) an area or facility where the public health and safety or the common defense and security is at risk; or

(III) a State under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)); and

(ii) have other matter for a period ending after the date that is 4 years after the date of enactment of this Act.

(2) Waivers.—

(A) IN GENERAL.—Except as provided in section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)), if the Commission determines that—

(III) the program of the State for licensing such byproduct material is adequate to protect the public health and safety.
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“A” the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

“B” the Commission, in accordance with regulations prescribed for this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).—

(2) If—

(A) by striking , subject to public notice and comment, regulations— and inserting "requirements—";

(B) in paragraph (2)(B), by striking "unsegregated access to the facility of a licensee or applicant" and inserting "unsegregated access to a site or facility owned or operated by a contractor of such a licensee or certificate holder, or other property described in subsection a.(-)(B)");

(3) by redesignating subsection d. as subsection e.; and

(4) by inserting after subsection c. the following:

“d. The Commission may require a person or individual to conduct fingerprinting under subsection a.(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

“(1) the Attorney General; and

“(2) the Commission, by regulation."...

SEC. 653. USE OF FIREARMS BY SECURITY PERSONNEL.

The Atomic Energy Act of 1954 is amended by inserting after section 161 (42 U.S.C. 2201) the following:

“SEC. 161A. USE OF FIREARMS BY SECURITY PERSONNEL.

“(a) DEFINITIONS.—In this section, the terms ‘handgun’, ‘rifle’, ‘shotgun’, ‘firearm’, ‘ammunition’, ‘machinegun’, ‘short-barreled shotgun’, and ‘short-barreled rifle’ have the meanings given the terms in section 921(a) of title 18, United States Code.

“(b) AUTHORIZATION.—Notwithstanding subsections a.(-)(2), b.(-)(4), and (d) of section 922 of title 18, United States Code, section 5844 of the Internal Revenue Code of 1986, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use, or to sell, any such guns, weapons, ammunition, or devices, if the Commission determines that—

“(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

“(2) the security personnel—

“(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

“(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

“(C) are engaged in the protection of—

“(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated as a nuclear facility;

“(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported or transferred; and

“(iii) by inserting "as defined by" and in the custody or control of such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

“(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

“(c) BACKGROUND CHECKS.—A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or device under subsection b. shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section (b) of the Federal Uniform Corpus Vio—...
certified to the Secretary by the head of the agency.

(III) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.

SEC. 702. INCREMENTAL COST ALLOCATION.

Section 512 of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking “may” and inserting “shall”.

SEC. 703. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) is amended—

(1) by redesignating section 514 (42 U.S.C. 13214) as section 515; and

(2) by inserting after section 513 (42 U.S.C. 13213) the following:

SEC. 514. ALTERNATIVE COMPLIANCE.

(a) APPLICATION FOR WAIVER.—Any covered person subject to section 501 and any State subject to section 507(c) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(c).

(b) GRANT OF WAIVER.—The Secretary shall grant a waiver of the requirements of section 501 or 507(c) if the Secretary determines that such a waiver is warranted to achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

(1) the reduction in consumption of petroleum that would result from 100 percent aging of petroleum-based fuels with the fuel use requirements of section 501; or

(2) the case of a covered person under section 507(c), a reduction equal to the annual consumption of petroleum-based fuels by the State entity given credit under subsection 506.

(3) in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.),

(c) REPORTING REQUIREMENT.—Not later than December 31 of a model year, any State or covered person granted a waiver under this section for the preceding model year shall submit to the Secretary an annual report that—

(1) certifies the quantity of petroleum motor fuel reduction of the State or covered person during the preceding model year; and

(2) projects the baseline quantity of the petroleum motor fuel reduction of the State or covered person during the following model year.

(d) REVOCATION OF WAIVER.—If a State or covered person that receives a waiver under this section fails to comply with this section, the Secretary shall revoke the waiver and—

(1) the Secretary shall report to the Congress on the extent to which the requirements of this section are being achieved.

(b) CONFORMING AMENDMENT.—Section 511 of the Energy Policy Act of 1992 (42 U.S.C. 13261) is amended by striking “or 507” and inserting “507, or 507(c)

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13261) is amended by striking therein relating to section 514 and inserting the following:

Sec. 514. Alternative compliance.

Sec. 515. Authorization of appropriations.

SEC. 704. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13212 et seq.) have had—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the use of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles; and

(2) the quantity of petroleum displaced by the use of alternative fueled vehicles.

(c) REPORT.—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(1) identifies the grant recipients;

(2) describes the technologies to be funded under this section;

(3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (b); and

(4) identifies applications submitted for the program that were not funded; and

(d) REPORT.—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(1) vehicle acquisition requirements imposed on fleets or covered persons;

(2) administrative and recordkeeping expenses; and

(3) fuel and fuel infrastructure costs;

(4) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to carry out this section.

(2) that grants are administered in accordance with the grant program.

(f) REPORTING.—There are authorized to be appropriated for the purpose stated in this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $10,000,000 for fiscal year 2008; and

(4) $20,000,000 for fiscal year 2009.

SEC. 707. EMERGENCY EXEMPTION.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended by inserting before the semicolon at the end—

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

SEC. 711. HYBRID VEHICLES.

There are authorized to be appropriated efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

SEC. 712. EFFICIENT HYBRID AND ADVANCED DIESEL VEHICLES.

(a) PROGRAM.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $10,000,000 for fiscal year 2008; and

(4) $20,000,000 for fiscal year 2009.

SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 306(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended by striking “1 year after the date of enactment of this subsection” and inserting “February 15, 2006”.

SEC. 706. JOINT FLEXIBLE FUELS/HYBRID VEHICLE COMMERCIALIZATION INITIATIVE.

(a) DEFINITIONS.—In this section—

(1) ELIGIBLE ENTITY.—The term eligible entity means—

(A) a for-profit corporation;

(B) a nonprofit corporation; or

(C) an institution of higher education.

(2) PROGRAM.—The term “program” means a program established under section 721.

(b) ESTABLISHMENT.—The Secretary shall establish a program to improve technologies for the commercialization of—

(1) a combination hybrid/flexible fuel vehicle; or

(2) a plug-in hybrid/flexible fuel vehicle.

(c) ELIGIBLE ENTITY.—In carrying out this program, the Secretary shall provide grants that give preference to proposals that—

(1) achieve the greatest reduction in miles per gallon of petroleum fuel consumption;

(2) achieve not less than 250 miles per gallon of petroleum fuel consumption; and

(3) have the greatest potential of commercialization to be demonstrated within 5 years.

(d) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register procedures to certify—

(1) the hybrid/flexible vehicle fuel technologies to be demonstrated; and

(2) that grants are administered in accordance with this section.

(e) REPORT.—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(1) identifies the grant recipients;

(2) describes the technologies to be funded under this section;

(3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (b); and

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $10,000,000 for fiscal year 2008; and

(4) $20,000,000 for fiscal year 2009.

PART 2—ADVANCED VEHICLES

SEC. 721. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program (referred to in this part as the “pilot program”), to be administered through the Clean Cities Program of the Department, to provide not more than 30 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out projects or projects for the purposes described in subsection (b). This program of the Department, to provide not more than 30 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out projects or projects for the purposes described in subsection (b).

(b) ELIGIBLE ENTITY.—A grant under this section may be used for the following purposes:

(1) the acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighbor electric vehicles); and

(B) motorized 2-wheel bicycles or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees;

(2) the acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(1) the acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighbor electric vehicles); and

(B) motorized 2-wheel bicycles or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees;
(A) buses used for public transportation or transportation to and from schools; (B) delivery vehicles for goods or services; and (C) ground support vehicles at public airports (including vehicles to load and unload pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project, 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.

(B) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department; and

(ii) include—

(1) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 50 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(3) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant’s previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) meet the minimum requirements of subsection (a)(1)(B)(ii).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(2) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall require that the project, to the extent practicable, be deployed and distributed among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) 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 request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications are due, the Secretary shall select by competitive, merit-based awards for 5-year projects for which Federal assistance will be supported by Federal assistance under the pilot program, including—

(A) a description of the project proposed in the application, including how the project meets the requirements of this part; and

(B) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project.

(g) DEFINITIONS.—In this section:

(PART 3—FUEL CELL BUSES)

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(B) PREFERENCE.—In selecting projects under this section, the Secretary shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this part $200,000,000, to remain available until expended.

SEC. 741. CLEAN SCHOOL BUS PROGRAM.

(A) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ‘‘Administrator’’ means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term ‘‘alternative fuel’’ means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term ‘‘clean school bus’’ means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ‘‘eligible recipient’’ means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses; and

(i) 1 or more contracts awarded that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofitted using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term ‘‘retrofit technology’’ means a particulate filter or other emissions control equipment that is certified or approved by the Administrator or the California Air Resources Board as an effective emissions reduction technology when installed on an existing school bus.

(6) ULTRA LOW SULFUR DIESEL FUEL.—The term ‘‘ultra-low sulfur diesel fuel’’ means diesel fuel that contains sulfur at not more than 15 parts per million.

(B) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement, or retrofit (including repowering, refit, and retrofit engines) of, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses; and

(ii) to install retrofit technologies.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1977.

(C) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.
(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) ELIGIBILITY FOR 50 PERCENT GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to \( \frac{1}{2} \) of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) 0.01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(6) ULTRA LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall—

(i) ensure that the diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) require the grantee, in order to be eligible for grants under this section, to use fuel with sulfur no greater than 15 parts per million.

(B) DISTRIBUTION AND CREDITING.—The Administrator shall, to the maximum extent practicable, achieve nationwide deployment of clean school buses through the program under this section; and

(C) OFFICIAL REPORT.—The Administrator shall submit to Congress an annual report that—

(i) evaluates the implementation of this section; and

(ii) includes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients; and

(IV) the number of emissions levels of all buses purchased or retrofitted under this section; and

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(7) EDUCATION.—

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register a program to promote and explain the grant program.

(b) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in consultation with national, regional, and local transportation associations and other stakeholders.

(c) COMPONENTS.—The outreach program shall—

(i) inform potential grant recipients on the process of applying for grants;

(ii) describe technologies and the benefits of the technologies;

(iii) explain the benefits of participating in the grant program; and

(iv) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) $15,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

SEC. 742. DIESEL TRUCK RETROFIT AND FLEET MODERNIZATION PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of oxides of nitrogen, and/or particulate matter per ton or per truck; or

(B) will involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) the Secretary shall transmit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for ultra-low sulfur diesel fuel; and

(2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are proved shall be maintained, operated, and fueled according to applicable requirements.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out the purposes of this Act:

(1) $35,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007;

(3) $45,000,000 for fiscal year 2008;

(4) such sums as are necessary for each of fiscal years 2009 and 2010.

SEC. 743. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 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) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the progress of building natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section:

(1) $15,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007;

(3) $30,000,000 for fiscal year 2008.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for ultra-low sulfur diesel fuel and non-road mobile sources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out the purposes of this section:

(1) $15,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall—

(1) in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and improve safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this Act:

(1) $15,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.
(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources or for other purposes.

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved projects;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects and whether the emission reduction credits may be considered to be additional in relation to other requirements;

(6) the potential, for attainment purposes, of emission reduction credits relating to transit and land use policies; and

(7) any other information that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND INNOVATION.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) any oversight or policies to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) RISK ASSESSMENTS.—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term "Tier 2 emission standards" means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary shall accelerate the development and adoption of diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 753. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) describes the results of the study; and

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert vehicle motor trips to bicycle trips;

(B) document project results and energy savings (measured in units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(c) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be matched by non-Federal sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) identify and assess the current progress of the pilot projects under subsection (c); and

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure.

(3) DETERMINATION.—There is authorized to be appropriated to the Secretary to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c); and

(2) $290,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $790,000 shall be used to carry out subsection (d).

SEC. 756. REDUCTION OF ENGINE IDLING.

(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 system that delivers heat, air conditioning, electricity, or communications, and is capable of providing a reliable and unimpeded service of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or 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, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 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 other technology that—

(A) is used to reduce long-duration idling; and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(6) ENERGY CONSERVATION TECHNOLOGY.—The term "energy conservation technology" means any device, system, or device that improves the fuel economy.

(7) LONG-DURATION IDLING.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time when 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 during a routine stoppage associated with traffic movement or congestion.

(c) REDUCTION OF ENGINE IDLING TECHNOLOGY BENEFITS, PROCEDURES, AND REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A) 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 determine whether the models accurately reflect the 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 technologies and (ii) 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) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and
(B) prepare and make publicly available 1 or more reports describing the findings of the reviews.
(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2) may address the potential fuel savings resulting from use of idle reduction technology.
(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—
(A) ESTABLISHMENT.—
(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall:
(A)(i) authorize appropriations to the Administrator for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008;
(ii) LOCOMOTIVES.—There are authorized to be appropriated to the Administrator for fiscal year 2006, $15,000,000 for fiscal year 2007, and $20,000,000 for fiscal year 2008.
(iii) COST SHARING.—Subject to clause (i), the Administrator may require that at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.
(iv) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (iii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.
(5) IDLING LOCATION STUDY.—
(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 commence a study to analyze the effects of long-duration idling on 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 properties.
(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—
(i) complete the study under subparagraph (A); and
(ii) prepare and make publicly available 1 or more reports describing the findings of the study.
(C) VEHICLE WEIGHT EXCLUSION.—Section 127(a) of title 23, United States Code, is amended—
(1) by designating the first through eleventh sentences as paragraphs (I) through (II), respectively; and
(2) by adding at the end the following:
"(12) HEAVY DUTY VEHICLES.—"
(1) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel usage because of engine 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 in proportion to the potential fuel savings resulting from use of idle reduction technology.
(B) and (C), in order to promote reduction of fuel usage because of engine 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 in proportion to the potential fuel savings resulting from use of idle reduction technology.
(2) IDLING WEIGHT INCREASE.—The weight increase under subparagraph (A) shall not be greater than 400 pounds.
(C) PROOF.—On request by a regulatory agency or the enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—
(i) the idle reduction technology is fully functional at all times, and
(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."
(D) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—
(1) an identification of the grant recipients, a description of the grant amounts and the amount of funding provided; and
(2) an identification of all other applicants that submitted applications under the program.
(SEC. 756. IDLING TECHNOLOGY RATING PROGRAM.—
(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and biodiesel fuel producers, to include biodiesel testing in advanced diesel engine and fuel system technology.
(b) SCOPE.—The Secretary shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—
(i) the impact of biodiesel on emissions warranty, in-use liability, and antimotoring provisions;
(ii) the long-term use of biodiesel on engine operations;
(iii) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and
(iv) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel a maximum of 15-parts-per-million sulfur content.
(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.
(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.
(e) DEFINITION.—For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for biodiesel engines established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D1791 Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

SEC. 758. ULTRA-EFFICIENT ENGINE TECHNOLOGY PARTNERSHIP.—The Secretary shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

SEC. 759. FUEL ECONOMY INCENTIVE REQUIREMENTS.
Section 32905 of title 49, United States Code, is amended by adding the following new subsection at the end thereof:
"(b) FUEL ECONOMY INCENTIVE REQUIREMENTS.—In order for any model of dual fueled automobile to be eligible for the Federal fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, indicating that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2007.

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.
In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $3,900,000 for each of the fiscal years 2006 through 2010.

SEC. 772. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.
(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—
(1) in each of subsections (b) and (d), by striking "1993–2004" and inserting "1993–2010";
(2) in subsection (b), by striking "2001" and inserting "2007"; and
(3) in subsection (f)(1), by striking "2004" and inserting "2010";
(b) MAXIMUM FUEL ECONOMY INCREASE.
Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—
(1) in subparagraph (A), by striking "the model years 1993–2004" and inserting "model years 1993–2010"; and
(2) in subparagraph (B), by striking "the model years 2005–2008" and inserting "model years 2005–2014";

SEC. 773. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR ALTERNATIVE SOURCES.
(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of establishing alternative fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average...
SEC. 781. DEFINITIONS.

In this subtitle—

(1) FUEL CELL.—The term “fuel cell” means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) LIGHT-DUTY OR HEAVY-DUTY VEHICLE FLEET.—The term “light-duty or heavy-duty vehicle fleet” does not include any vehicle designed or procured for combat or combat-related missions.

(3) PORTABLE.—The term “portable,” when used in reference to a fuel cell, includes—

(A) continuous electric power; and

(B) backup electric power.

(4) TASK FORCE.—The term “Task Force” means the Hydrogen and Fuel Cell Technical Task Force established under section 806 of this Act.

(5) TECHNICAL ADVISORY COMMITTEE.—The term “Technical Advisory Committee” means the independent Technical Advisory Committee selected under section 807 of this Act.

SEC. 782. FEDERAL AND STATE PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to encourage development of new technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to improve the public perception of Federal government activities that are the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, or by the end of calendar year 2010, the head of any Federal agency that uses

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—The Administrator, in cooperation with the Task Force, shall—

(A) require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, or by the end of calendar year 2010, the head of any Federal agency that uses

(c) ENERGY SAVINGS GOALS.—

(1) IN GENERAL.—The Administrator, in cooperation with the Task Force, shall—

(A) require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, or by the end of calendar year 2010, the head of any Federal agency that uses

(d) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(e) CERTIFIED ENGINE CONFIGURATION.—The term “certified engine configuration” means a new, rebuilt, or remanufactured engine configuration.

(f) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009;

(3) $65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.

SEC. 783. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses

(c) ENERGY SAVINGS GOALS.—

(1) IN GENERAL.—The Administrator, in cooperation with the Task Force, shall—

(A) require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, or

(d) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(e) CERTIFIED ENGINE CONFIGURATION.—The term “certified engine configuration” means a new, rebuilt, or remanufactured engine configuration.

(f) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009;

(3) $65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.
(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—
(i) retired and included in the record of pollution reduction or in the record of pollution savings; and
(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or in a reconditioned form.

(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—
(A) a regional, local, or tribal agency, or a port authority that is authorized to act on the transportation or public health issues; and
(B) a nonprofit organization or institution that—
(i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or
(ii) is a national or state association or organization that serves as a vehicle, or other public information or educational resource.

(3) ELIGIBLE PROJECT.—The term ‘eligible project’ mean—
(A) an engine replacement that replaced an engine that was—
(i) retired and included in the record of pollution reduction or in the record of pollution savings; and
(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or in a reconditioned form.

(4) EMERGING TECHNOLOGY.—The term ‘emerging technology’ means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approved application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) FLEET.—The term ‘fleet’ means I or more diesel vehicles or mobile or stationary diesel engines.

(6) HEAVY-DUTY TRUCK.—The term ‘heavy-duty truck’ has the meaning given the term ‘heavy-duty vehicle’ in section 202 of the Clean Air Act (42 U.S.C. 7521).

(7) MEDIUM-DUTY TRUCK.—The term ‘medium-duty truck’ has such meaning as shall be determined by the Administrator, by regulation.

(8) VERIFIED TECHNOLOGY.—The term ‘verified technology’ means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by—
(A) the Administrator; or
(B) the California Air Resources Board.

SEC. 792. NATIONAL GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—The Administrator shall use 70 percent of the funds made available to carry out this subtitle for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in terms of—
(1) tons of pollution produced; and
(2) diesel emissions exposure, particularly from areas in areas designated by the Administrator as poor air quality areas.

(b) DISTRIBUTION.—

(A) IN GENERAL.—The Administrator shall distribute the funds made available for a fiscal year under this subtitle in accordance with this section.

(B) FLEETS.—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) ENGINE CONFIGURATIONS AND TECHNOLOGIES.—

(A) CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.—The Administrator shall provide not less than 30 percent of funds available for a fiscal year under this section to eligible entities for projects using—
(i) a certified engine configuration; or
(ii) a verified technology.

(B) EMERGING TECHNOLOGIES.—

(i) IN GENERAL.—The Administrator shall provide not less than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) ADOPTION AND TEST PLAN.—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant or loan under this section, an eligible entity shall submit an application at a designated time, in a manner, and including such information as the Administrator may require.

(2) INCLUSIONS.—An application under this subsection shall include—
(A) a description of the area served by the eligible entity;
(B) the quantity of air pollution produced by the diesel fleets in the area served by the eligible entity;
(C) a description of the project proposed by the eligible entity, including—
(i) the proposed engine configuration, verified technology, or emerging technology to be used or funded by the eligible entity; and
(ii) the means by which the project will achieve a significant reduction in diesel emissions;
(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;
(E) an estimate of the cost of the proposed project;
(F) a description of the age and expected lifetime control of the equipment used or funded by the eligible entity;
(G) a description of the diesel fuel available in the areas to be served by the eligible entity, including the sulfur content of the fuel; and
(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—
(A) maximize public health benefits;
(B) are the most cost-effective;
(C) serve areas—
(i) with the highest population density;
(ii) that are poor air quality areas, including areas identified by the Administrator as—
(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant; or
(II) Federal Class I areas; or
(III) areas with toxic air pollutant concerns;
(iii) that receive a disproportionate quantity of air pollution from a diesel fleets, including truckstops, ports, rail yards, terminals, and distribution centers;
(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions.

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;
(E) will utilize the use of any certified engine configuration, verified technology, or emerging technology used or funded by the eligible entity;
(F) conserve diesel fuel; and
(G) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(4) USE OF FUNDS.—

(A) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—
(i) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—
(I) a bus; or
(ii) a medium-duty truck or a heavy-duty truck;
(II) a marine engine; or
(iii) a locomotive; or
(iv) a nonroad engine or vehicle used in—
(I) construction; or
(II) handling of cargo (including at a port or airport);

(B) REQUIREMENTS.—The Administrator shall—
(i) may not use funds received under this subtitle to pay a matching share required under this subsection; and
(ii) in order to receive a grant or loan under this section, shall provide a matching share for any additional amount received under subparagraph (A).
(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 792.

(d) ADMINISTRATION.—
(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 792(c)(4), a State shall—
(A) determine the portion of funds to be provided as grants or loans.
(B) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—
(A) a certified engine configuration; or
(B) a verified technology.

SEC. 794. EVALUATION AND REPORT.
(a) IN GENERAL.—Not later than 1 year after the date on which funds are made available under this subtitle, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this subtitle.

(b) INCLUSIONS.—The report shall include a description—
(1) the total number of grant applications received;
(2) each grant or loan made under this subtitle, including the amount of the grant or loan;
(3) each project for which a grant or loan is provided under this subtitle, including the criteria used to select the grant or loan recipients;
(4) the actual and estimated air quality and diesel fuel conservation benefits, cost-effectiveness, and cost-benefits of the grant and loan programs funded under this subtitle;
(5) the problems encountered by projects for which a grant or loan is provided under this subtitle; and
(6) any other information the Administrator considers to be appropriate.

SEC. 795. OUTREACH AND INCENTIVES.
(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this subsection, the term "eligible technology" means—
(1) a verified technology; or
(2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—
(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator
(A) informs stakeholders of the benefits of eligible technologies; and
(B) develops non-financial incentives to promote the use of eligible technologies.

(c) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—
(A) equipment owners and operators;
(B) emission and pollution control technology manufacturers;
(C) engine and equipment manufacturers;
(D) State and local officials responsible for air quality management;
(E) community organizations; and
(F) environmental, educational, and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7407).

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders, shall inform the Administration about any potential problems that the potential of technology developed or used in the United States to provide emission reductions in other countries.

SEC. 796. EFFECT OF SUBTITLE.
Nothing in this subtitle affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

SEC. 797. AUTHORIZATION OF APPROPRIATIONS.
There is authorized to be appropriated to carry out this subtitle $200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

TITLE VIII—HYDROGEN

SEC. 801. HYDROGEN AND FUEL CELL PROGRAM.
This title may be cited as the "Spark M. Mat-sunaga Hydrogen Act of 2005.

SEC. 802. PURPOSES.
The purposes of this title are—
(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;
(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;
(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;
(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from transportation sector, and greatly enhance our national energy security; and
(5) to create, strengthen, and protect a sustainable national economy.

SEC. 803. DEFINITIONS.
In this title:
(1) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.
(2) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a motor vehicle that—
(A) is rated at more than 8,500 pounds gross vehicle weight;
(B) has a curb weight of more than 6,000 pounds; or
(C) has a basic vehicle frontal area in excess of 45 square feet.
(3) INFRASTRUCTURE.—The term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).
(4) LIGHT-DUTY VEHICLE.—The term "light-duty vehicle" means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.
(5) STATIONARY, PORTABLE.—The terms "stationary" and "portable", when used in reference to a fuel cell, include—
(A) continuous electric power; and
(B) backup electric power.
(6) TASK FORCE.—The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 806.

SEC. 804. PLAN.
Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—
(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 806(e); and
(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;
(3) the milestones that will be used to evaluate the progress of the activities;
(4) the most significant technical and non-technical hurdles that stand in the way of achieving the goals described in section 805, and how the programs will address those hurdles; and
(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 805. PROGRAMS.
(a) IN GENERAL.—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) GOAL.—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial, and residential applications.

(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical development and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—
(1) steadily increase production, distribution, and end use efficiency and reduce life-cycle emissions;
(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from the program;
(3) enhance sources of renewable fuels and biofuels for hydrogen production; and
(4) enable widespread use of distributed electricity generation and storage.

(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

(e) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct programs to—
(1) production of hydrogen from diverse energy sources, including—
(A) fossil fuels, which may include carbon capture and sequestration;
(B) hydrogen-carrier fuels (including ethanol and methanol);
(C) renewable energy resources, including biomass; and
(D) nuclear energy;
(2) use of hydrogen for commercial, industrial, and residential electric power generation;
(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—
(A) transmission by pipeline and other distribution methods; and
(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed onsite generation;
(4) advanced vehicle technologies, including—
(A) engine and emission control systems;
(B) energy storage, electric propulsion, and hybrid systems;
(C) automotive materials; and
(D) other advanced vehicle technologies;
(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;
(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible cell power systems, portable fuel cell power systems, micro-performing processes, high-temperature membranes, cost-effective fuel processing for natural gas,
fuel cell stack and system reliability, low temperature operation, and cold start capability; and

(7) the ability of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States.

(2) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than fiscal year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have, when compared to light-duty vehicles in model year 2005—

(i) (A) fuel economy that is substantially higher;

(ii) substantially lower emissions of air pollutants; and

(iii) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRA-

STRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, micro, critical needs facilities, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cell-powered vehicles;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(3) FUNDING.—

(1) IN GENERAL.—The Secretary shall carry out this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nation-

ally recognized university-based or Federal labor-

atory research centers.

(h) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this section—

(1) $160,000,000 for fiscal year 2006;

(2) $200,000,000 for fiscal year 2007;

(3) $220,000,000 for fiscal year 2008;

(4) $240,000,000 for fiscal year 2009;

(5) $250,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fisc-

al years 2011 through 2020.

SEC. 806. HYDROGEN AND FUEL CELL TECH-

NICAL TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representa-

tives from each of the following:

(1) The Office of Science and Technology Pol-

icy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Tech-

nology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Ad-

ministration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) DUTIES.—

(1) PLANNING.—The Task Force shall work to-

ward (A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydro-

carrier fuels, including an infrastructure that supports buses and other fleet transporta-

tion;

(B) fuel cells in government and other appli-

cations, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The Task Force may organize workshops and conferences, may issue publica-

tions, and may create databases to carry out its duties. The Task Force shall—

(A) foster the exchange of generic, nonpropri-

etary information and technology among indus-

try, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other ad-

vanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribu-

tion, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including executive departments as appropriate, may be represented on the Task Force.

(d) RESPONSE.

SEC. 807. TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Hydrogen Tech-

nical and Fuel Cell Advisory Committee is estab-

lished to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Technical Advisory Com-

mittee shall consist of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, govern-

ment agencies, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of Technical Advisory Committee members and the needs of the Technical Advisory Committee.

(2) TERMS.—The term of a member of the Technical Advisory Committee shall not be more than 3 years.

(3) CHAIRPERSON.—The Technical Advisory Committee shall have a chairperson, who shall be elected by the members from among their number.

(c) REVIEW.—The Technical Advisory Com-

mittee shall review and make recommendations to the Secretary on

(1) the implementation of programs and activi-

ties under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydro-

gen energy and fuel cells; and

(3) the plan under section 804.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Technical Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmittal a biennial report to Congress describing any recommendations made by the Technical Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to imple-

ment the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide re-

sources necessary in the judgment of the Sec-

retary for the Technical Advisory Committee to carry out its responsibilities under this title.

SEC. 808. DEMONSTRATION.

(a) IN GENERAL.—In carrying out the pro-

grams under this section, the Secretary shall fund a limited number of demonstration projects, consistent with this title and a deter-

mination of the maturity, cost-effectiveness, and environmental impacts of technologies sup-

porting each project. In selecting projects under this subsection, the Secretary shall, to the ext-

ent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related prod-

ucts at existing facilities or installations, such as existing office buildings, military bases, vehi-

cle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technolo-

gies and draw such technologies into the market-

place;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technolo-

gy among competing alternatives;

(8) address distributed generation using re-

newable sources;

(9) carry out demonstrations of evolving hy-

drogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal lands, as selected by the Secretary;

(10) carry out a program to demonstrate develop-

mental hydrogen and fuel cell systems for mo-

 bile, portable, and stationary uses, using im-

proved versions of the learning demonstrations program concept of the Department including demonstrations involving—

(A) light-duty vehicles;

(B) heavy-duty vehicles;

(C) fleet vehicles;

(D) specialty industrial and farm vehicles; and

(E) commercial and residential portable, con-

tinuous, and backup electric power generation;

(11) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen sup-

ply corridors along the interstate highway sys-

tem in varied climates across the United States; and

(12) provide for demonstration projects of elec-

tric vehicles using hydrogen and fuel cells; and

(b) FUNDING.—The funding for demonstration projects shall be as follows:

(1) $230,000,000 for fiscal year 2009;

(2) $200,000,000 for fiscal year 2010; and

(3) such sums as are necessary for each of fiscal years 2011 through 2020.
(12) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, fuel cell, and advanced internal combustion-powered vehicles.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (12).

(b) SYSTEM DEMONSTRATIONS.—

(1) IN GENERAL.—As a component of the demonstration program under this section, the Secretary, at the Secretary’s discretion, shall coordinate with agencies, professional organizations, public service organizations, public and private institutions, and nonprofit organizations to carry out the learning demonstrations program concept that provides for the use of advanced composite vehicles in programs under section 782 that—

(A) as a primary goal the reduction of drive cycle requirements; and

(B) after 2010, add another research and development phase, as defined in subsection (c), including the vehicle and infrastructure partners developed under the learning demonstration program concept of the Department; and

(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

(A) to develop optimized concentrated solar power devices that may be used for the production of both electricity and hydrogen; and

(v) establish a program to explore the use of solar radiation with carbon cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;

(b) EDUCATIONAL EFFORTS.—The Secretary shall—

(A) devise system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(2) provide for the construction and operation of new concentrating solar power devices or systems for hydrogen, devices that produce hydrogen either concurrently with, or independently of, the production of electricity;
and wind energy technologies for the production of hydrogen.

SEC. 911. ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this subtitle:

(1) the term ‘‘concentrating solar power devices’’ means devices that concentrate the power of the sun by refraction or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term ‘‘minority institution’’ has the meaning given to that term in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k);

(3) the term ‘‘part B institution’’ has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061);

and

(4) the term ‘‘photovoltaic devices’’ means devices that convert light directly into electricity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for carrying out the activities under this section for each of fiscal years 2006 through 2020.

SEC. 813. TECHNOLOGY TRANSFER.

In carrying out this title, the Secretary shall carry out programs that—

(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

(2) accelerate wider application of those technologies in the global market;

(3) foster the exchange of generic, nonproprietary information; and

(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

SEC. 814. MISCELLANEOUS PROVISIONS.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives in the formulation of decisions and positions on energy and transportation matters.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 815. CONTINUING AUTHORITY.

The costs of carrying out projects and activities under this title shall be shared in accordance with section 588.

SEC. 816. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this title with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 610 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities relating to advanced energy technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States to the activities and programs under the authority of title 49, United States Code.

TITLE IX—RESEARCH AND DEVELOPMENT
SEC. 901. SHORT TITLE.

This title may be cited as the ‘‘Energy Research, Development, Demonstration, and Commercial Application Act of 2005’’.

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application with particular emphasis on—

(A) increased efficiency of all energy intensive sectors through conservation and improved technologies;

(B) promotion of energy supply; (c) decreasing the dependence of the United States on foreign energy supplies;

(D) improving the energy security of the United States;

(E) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals, comparable over time, with each annual budget submission in at least the following areas:

(1) Energy efficiency for buildings, energy-consuming industries, and vehicles.

(2) Electric energy generation (including distributed generation), transmission, and storage.

(3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydroponics.

(4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation fuels.

(5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

In this title:

(1) DEPARTMENTAL MISSION.—The term ‘‘departmental mission’’ means the principal functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) HISPANIC-SERVING INSTITUTION.—The term ‘‘Hispanic-serving institution’’ has the meaning given in section 592(a) of the Higher Education Act of 1965 (20 U.S.C. 1081a).

(3) NONMILITARY ENERGY LABORATORY.—The term ‘‘nonmilitary energy laboratory’’ means a National Laboratory other than a National Laboratory listed in subparagraph (G), (H), or (N) of section 501.

(4) PART B INSTITUTION.—The term ‘‘part B institution’’ has the meaning given in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(5) SINGLE-PURPOSE RESEARCH FACILITY.—The term ‘‘single-purpose research facility’’ means a facility established under part D of title III of the Energy Conservation and Production Act (42 U.S.C. 6801 et seq.); or

(6) STATE.—The term ‘‘State’’ has the meaning given in the term ‘‘State educational agency’’ in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

(A) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(B) Reducing the demand of the United States for energy, especially energy from foreign sources.

(C) Reducing the cost of energy and making the economy more efficient and competitive.

(D) Improving the energy security of the United States.

(E) Reducing the environmental impact of energy-related activities.

(b) PROGRAMS.—Programs under this subtitle shall include research, development, demonstration, and commercial application of—

(A) advanced, cost-effective technologies to increase the energy efficiency and environmental performance of vehicles, including—

(i) hybrid and electric propulsion systems;

(ii) plug-in hybrid systems;

(iii) advanced combustion engines;

(iv) weight and drag reduction technologies;

(v) vehicle design optimization; and

(vi) advanced drive trains;

(B) cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of buildings, using a whole-buildings approach, including on-site renewable energy generation;

(C) advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries; and

(D) advanced control devices to improve the energy efficiency of existing, and to control, those used in industrial processes, heating, ventilation, and cooling.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this section—

(1) $783,000,000 for fiscal year 2007;

(2) $865,000,000 for fiscal year 2008; and

(3) $952,000,000 for fiscal year 2009.

(d) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this section—

(1) $783,000,000 for each of fiscal years 2007 through 2009.

(2) $952,000,000 for each of fiscal years 2007 through 2009.

(e) LIMITATIONS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance or implementation of energy efficiency regulations;

(2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6801 et seq.);

(3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) a Federal energy management measure carried out under part 1 of title IV of the National Energy Conservation Policy Act (42 U.S.C. 6321 et seq.).

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term ‘‘advanced solid-state lighting’’ means a lighting device that utilizes solid-state lighting technology that produces white light using externally applied voltage.
(2) INDUSTRY ALLIANCE. — The term “Industry Alliance” means an entity selected by the Secretary under subsection (d).

(3) INITIATIVE. — The term “Initiative” means the National Building Performance Initiative carried out under this section.

(4) RESEARCH. — The term “research” includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) WHITE LIGHT EMITTING DIODE. — The term “white light emitting diode” means a semiconductor device that emits white light using externally applied voltage.

(b) The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application of semiconducting packages, using either organic or inorganic materials, that produces white light using externally applied voltage.

(c) The Secretary may give preference to participants in research, development, infrastructure, and manufacturing expertise as a whole.

(2) INCLUSIONS. — The Secretary shall annually solicit from the Industry Alliance described in paragraph (1); and (3) INITIATIVE. — The Initiative shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP. — (1) IN GENERAL. — Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (c), the National Building Performance Initiative (referred to in this section as the “Initiative”).

(b) INTEGRATION OF EFFORTS. — The Initiative shall coordinate with the National Institute of Standards and Technology, the National Institute of Building Sciences, and the National Academy of Sciences to conduct periodic reviews of the Initiative.

(c) OBJECTIVES. — The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, result in lower energy consumption, lower greenhouse gas emissions, and lower environmental impact.

(d) INDUSTRY ALLIANCE. — Not later than 90 days after the date of enactment of this Act, the Secretary shall competitively select an Industry Alliance to represent participants who are private, non-profit, open to large and small business, government entities, and other entities, as appropriate, that are based on the findings of the assessment.

(e) AVAILABILITY TO PUBLIC. — The assessment and plans developed under this section shall be made available to the public.

(f) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION. — (1) IN GENERAL. — The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively awarded grants to — (A) researchers, including Industry Alliance participants; (B) small businesses; (C) National Laboratories; and (D) institutions of higher education.

(g) PLAN. — The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

(h) INTELLECTUAL PROPERTY. — The Secretary may receive financial assistance under this section to support research, development, demonstration, and commercial application of energy technologies for purposes of — (A) research, development, demonstration, and commercial application of energy technology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and (B) the exploitation, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(i) DEPARTMENT OF ENERGY ROLE. — (A) The Department of Energy shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(j) ADVISORY COMMITTEE. — The Director of the Office of Science and Technology Policy shall establish an advisory committee to — (1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and (2) review and provide recommendations on the plan described in subsection (c).

(k) ADMINISTRATION. — Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. BUILDING STANDARDS.

(a) DEFINITION OF HIGH PERFORMANCE BUILDING. — (1) NATIONAL INSTITUTE OF BUILDING SCIENCES. — (A) the diversity of battery type; (B) geographic and climatic diversity; and (C) life-cycle environmental effects of the approaches.

(2) LIMITATION. — No project selected under this subsection shall receive more than 25 percent of the funds made available to carry out the program under this section.
(4) NON-FEDERAL INVO LVM EN T.—In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

SEC. 916. ENERGY EFFICIENCY SCIENCE INITIA L I Ç E.

(a) ESTABLISHMENT.—The Secretary shall es tablish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy con servation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to Congress, no later than the full annual budget of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 917. ADVANCED ENERGY EFFICIENCY TECH NOL O GIES.

(a) GRANTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Efficiency Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers. In establishing the network, the Secretary shall consider the special needs and opportunities for increased energy efficiency for manufactured and site-built housing.

(b) ACTIVITIES.—

(1) IN GENERAL.—Each Center shall operate a program to store, retain, and disseminate advanced energy technologies and technologies through education and outreach to building and industrial professionals, and to small business and organizations with an interest in efficient energy use.

(2) ADVISORY PANEL.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under paragraph (1).

(c) APPLICATION.—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the activities described in subsection (b)(1).

(2) The extent to which the applicant will coordinate the activities of the Center with other entities such as State and local governments, utilities, and educational and research institutions.

(3) COST-SHARING.—In carrying out this section, the Secretary shall require cost-sharing in accordance with the requirements of section 908 for commercial application activities.

(f) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this section. The advisory committee shall provide the Secretary with advice on developed expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(1) State or local energy offices;

(2) energy professionals;

(3) trade or professional associations;

(4) architects, engineers, or construction professionals;

(5) manufacturers;

(6) the research community; and

(7) nonprofit energy or environmental organizations.

(g) DEFINITIONS.—For purposes of this section:

(1) ADVANCED ENERGY METHODS AND TECHNOLOGIES.—The term ‘‘advanced energy methods and technologies’’ means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies and energy use, and use of energy, and

(2) CENTER.—The term ‘‘Center’’ means an Advanced Energy Technology Transfer Center established pursuant to this section.

SEC. 918. DISTRIBUTED GENERATION.

(a) ESTABLISHMENT.—The term ‘‘distributed generation’’ means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

(b) AUTHORIZATION OF A PPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated in section 911, there are authorized to be appropriated from amounts appropriated under this section such sums as may be appropriated.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—The Secretary shall carry out programs of research, development, demonstration, and commercial application on distributed energy and electric energy systems activities, including activities authorized under this subtitle—

(1) for fiscal year 2007, $290,000,000;

(2) for fiscal year 2008, $255,000,000; and

(3) for fiscal year 2009, $273,000,000.

(b) HIGH-VOLTAGE TRANSMISSION LINES.—From amounts authorized under subsection (b), $2,000,000 for each of fiscal years 2007 through 2009.

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program of research, demonstration, and commercial application to improve the energy efficiency of high power density facilities, including data centers, server farms, and similar facilities.

(b) TECHNOLOGIES.—The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technologies.

(b) USES.—The consortia shall explore—

(1) the use of small-scale combined heat and power in residential heating appliances;

(2) the use of excess power to operate other appliances within the residence; and

(3) the supply of excess generated power to the power grid.

SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAMS.

(a) COORDINATING CONSORTIA PROGRAM.—The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in highly energy intensive commercial applications.

(b) SMALL-SCALE PORTABLE POWER PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) establish a research, development, and demonstration program to develop working models of small-scale portable power devices; and

(B) assist in the identification and use of the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(2) ORGANIZATION.—The universities identified and utilized under paragraph (1)(B) are authorized to establish an organization to provide small scale portable power devices.
(9) the development and use of advanced grid design, operation, and planning tools; (10) any other infrastructure technologies, as appropriate; and
(11) technologies transfer and education.
(b) PROGRAM PLAN.—
(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.
(2) CONSULTATION.—In preparing the program plan, the Secretary shall consult with—
(A) utilities;
(B) a service providers;
(C) manufacturers;
(D) institutions of higher education;
(E) other appropriate State and local agencies;
(F) environmental organizations;
(G) professional and technical societies; and
(H) any other persons the Secretary considers appropriate.
(c) IMPLEMENTATION.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, academia, and community, and National Laboratories.
(d) REPORT.—Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—
(1) describing the progress made under this section; and
(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.
(e) POWER DELIVERY RESEARCH INITIATIVE.—
(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using superconducting, incorporating high temperature superconductivity.
(2) GOALS.—The goals of the Initiative shall be—
(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;
(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;
(C) to commercialize the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and
(D) to integrate a very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.
(3) INCLUSIONS.—The Initiative shall include—
(A) feasibility analysis, planning, research, and development to construct demonstrations of superconducting links in high power, direct current, and controllable alternating current transmission systems;
(B) to enter into cooperative partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and
(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education of—
(i) demonstrate those technologies;
(ii) prepare the technologies for commercial introduction; and
(iii) develop service or performance roadblocks to successful commercial use.
(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—
(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.
(2) GOALS.—The goals of the Initiative shall be—
(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and
(ii) to ensure commercial development in partnership with software vendors and utilities;
(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of systems planning and operations in the presence of competitive markets for electricity;
(C) to model, simulate, and experiment with new renewable energy technologies and operating practices to understand and optimize those new methods before actual use; and
(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.
(g) H IGH-VOLTAGE TRANSMISSION LINES.—As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.
(h) RURAL TRANSMISSION PROJECTS.—The Secretary shall award a grant to a utility to construct a program of research, development, demonstration, and commercial application for cost competitive technologies that enable the development of new and incremental hydroponic capacity, adding to the supply of the United States, including—
(i) Fish-friendly large turbines; 
(ii) advanced technologies to enhance environmental performance and yield greater energy efficiencies.

Subtitle C—Renewable Energy

SEC. 901. RENEWABLE ENERGY.

(a) IN GENERAL.

(1) OBJECTIVES.—The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application activities, including activities authorized under subsection (b), to—
(A) SOLAR ENERGY.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—
(i) photovoltaics;
(ii) solar hot water and solar space heating;
(iii) concentrating solar power;
(iv) lighting systems that integrate sunlight and electrical lighting in complement to each other in commercial applications described in this paragraph for the purpose of improving energy efficiency; 
(v) manufacturability of low cost high quality solar cells and solar panels; and
(vi) development of products that can be easily integrated into new and existing buildings.
(B) WIND ENERGY.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including—
(i) low speed wind energy;
(ii) offshore wind energy; 
(iii) testing and verification (including construction and operation of a research and testing facility capable of testing wind turbines); and
(iv) distributed wind energy generation.
(C) GEOTHERMAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—
(i) improving detection of geothermal resources; 
(ii) increasing drilling costs; and
(iii) increasing the understanding of reservoir life cycle and management.
(D) HYDROPOWER.—The Secretary shall conduct a program of research, demonstration, and commercial application for cost competitive technologies that enable the development of new and incremental hydroponic capacity, adding to the supply of the United States, including—
(i) increasing the potential for other revenue sources, such as mineral production; and
(ii) increasing the understanding of reservoir life cycle and management.
(E) MISCELLANEOUS PROJECTS.—The Secretary shall conduct research, development, demonstration, and commercial application activities, including activities authorized under subsection (b), to—
(i) ocean energy, including wave energy; 
(ii) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies; 
(iii) renewable energy technologies for cogeneration of hydrogen and electricity; and
(iv) kinetic hydro turbines.
(b) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under subsection (b), as follows:
(1) $582,000,000 for fiscal year 2007;
(2) $743,000,000 for fiscal year 2008; and
(3) $852,000,000 for fiscal year 2009.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall—
(A) consist of—
(i) the Secretary; and
(ii) the Secretary’s designees;
(B) maintain an advisory committee of the National Academies of Sciences (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and
(C) ensure that the committee includes members who are representatives of—
(i) Tribal Colleges or Universities; and
(ii) Hispanic-serving institutions.

(2) RURAL DEMONSTRATION PROJECTS.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of renewable energy technologies to assist in delivering electricity to rural and remote locations including—
(i) advanced wind power technology, including combined use with coal gasification;
(ii) biofuels; and
(iii) geothermal energy systems.
(1) In GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These activities shall be used to guide budget and program decisions and shall include—

(A) economic and technical analysis of renewable energy potential, including resource assessment;

(B) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(C) any other analysis or evaluation that the Secretary considers appropriate.

(2) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities subsection.

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term “biomass” means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pallets, crates, damage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trappings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(2) LIGNOCELLULOSIC FEEDSTOCK.—The term “lignocellulosic feedstock” means any portion of a plant or coproduct from conversion, including crops, trees, forest residues, and agricultural residues not specifically grown for food, including from barley grain, grapeseed, rice bran, rice hulls, rice straw, soybean matter, and sugarcane bagasse.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower systems;

(2) biofuels;

(3) bioproducts;

(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;

(5) cross-cutting research and development in feedstocks; and

(6) economic analysis.

(c) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel, or in cases where either internal combustion engines or fuel cell-powered vehicles;

(2) advanced biotechnology processes capable of making fuels from lignocellulosic feedstocks, with emphasis on reducing the dependence on industry of fossil fuels in manufacturing facilities; and

(3) advanced biotechnology processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) INTEGRATED BIOREFINERY DEMONSTRATION PROGRAMS.

(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the commercial application of integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than $100,000 for any single biorefinery demonstration. In making awards under this subsection, the Secretary shall encourage—

(A) the demonstration of a wide variety of lignocellulosic feedstocks;

(B) the commercial application of biomass technologies for fuel cell-powered vehicles (including—

(i) liquid transportation fuels;

(ii) high-value biobased chemicals;

(iii) substitutions for petroleum-based feedstocks and products; and

(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(e) UNIVERSITY BIODIESEL PROGRAM.—The Secretary shall conduct a demonstration program to determine the feasibility of the operation of diesel electric power generators, using biodiesel fuels with ratings as high as B100, at electric power plants owned by institutions of higher education. The program shall examine—

(1) heat rates of diesel fuels with large quantities of cellulosic biofuels;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

SEC. 933. LOW-COST RENEWABLE HYDROGEN AND INFRASTRUCTURE FOR VEHICLE PROPULSION.

The Secretary shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsions in lightweight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels; and

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within 2 years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—

(i) operates solely on hydrogen;

(ii) qualifies as a light-duty passenger vehicle; and

(iii) uses hydrogen produced from water using only solar energy.

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) ADMINISTRATION.—The program shall take advantage of existing facilities to the extent practicable and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power; and

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) cogeneration of solar thermal electric power and photo-synthetic hydrogen production;

(5) system architectures and economics studies;

(6) coordination with activities under the Next Generation Nuclear Plant Project established under subtitle C of title VI on high temperature materials, thermochemical cycles, and economic issues;

(c) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

(1) assess conflicting public and institutional interest in the economic potential of concentrating solar power for electricity production received from the National Research Council in the report entitled “Renewable Power Pathways: Assessment of the U.S. Department of Energy’s Renewable Energy Programs” and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2008.

SEC. 935. RENEWABLE ENERGY IN PUBLIC BUILDINGS.

(a) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for renewable energy in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) LIMIT ON FEDERAL FUNDING.—Notwithstanding section 988, the Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) REQUIREMENTS.—As part of the application for awards under this subsection, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

Subtitle D—Agricultural Biomass Research and Development Programs

SEC. 941. AMENDMENTS TO THE BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000.

(a) DEFINITIONS.—Section 303 of the Biomass Research and Development Act of 2000 (Public Law 106–224, 7 U.S.C. 8101 note) is amended—

(1) by striking paragraphs (2), (9), and (10); and

(2) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (7), (8), (9), and (10), respectively;

(b) by inserting after paragraph (1) the following:

“(2) BIOMASS FUEL.—The term ‘biomass fuel’ means any transportation fuel produced from biomass.”

“(3) BIOMASS PRODUCTS.—The term ‘biomass product’ means an industrial product (including chemicals, materials, and polymers) produced from biomass, or a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass.”

“(4) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:”
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“(6) DEMONSTRATION.—The term ‘demonstration’ means demonstration of technology in a pilot plant or semi-works scale facility.”; and

(5) by striking paragraph (9) (as redesignated by paragraph (8)) and inserting the following:

“(9) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given that term in section 2 of the Energy Policy Act of 2005.”;

(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—Section 304 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (d), by striking “industrial products” each place it appears and inserting “fuels and biobased products”;

(2) by redesignating subsections (b) and (c); and

(3) by redesigning subsection (d) as subsections (d)(1) through (J) as subparagraphs (C) through (K), by striking the period at the end of paragraph (1), and inserting “; and”;

(4) in subsections (f) and (h), by redesignating subparagraphs (B), (C), (D), (F), and (H) as subparagraphs (C), (D), (F), and (H), respectively;

(b)(1) in subsection (a), by striking “research on biobased industrial products” and inserting “research on, and development and demonstration of, biobased fuels and biobased products, and the methods, processes, and technologies, for their production”; and

(2) by striking subsections (b) through (e) and inserting the following:

“(b) OBJECTIVES.—The objectives of the Initiative are to develop—

(1) technologies and processes necessary for abundant commercial production of biobased fuels at prices competitive with fossil fuels;

(2) high-value biobased products—

(A) to enhance the economic viability of biobased fuels and biobased products;

(B) as substitutes for petroleum-based feedstocks and products; and

(C) a diversity of sustainable domestic sources of biobased fuels and biobased products.

(3) PURPOSES.—The purposes of the Initiative are—

(1) to increase the energy security of the United States;

(2) to create jobs and enhance the economic development of the rural economy;

(3) to enhance the environment and public health; and

(4) to diversify markets for raw agricultural and forestry products.

(d) TECHNICAL AREAS.—To advance the objectives and purposes of the Initiative, the Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this section as the ‘Secretaries’), shall direct research and development toward—

(1) feedstock production through the development of crops and cropping systems relevant to production of renewable materials for conversion to biobased fuels and biobased products, including—

(A) development of advanced and dedicated crops useful for bioenergy, including enhanced productivity, broader site range, low requirement for chemical inputs, and enhanced processing;

(B) advanced crop production methods to achieve the features described in subparagraph (A);

(C) feedstock harvest, handling, transport, and storage; and

(D) strategies for integrating feedstock production into existing managed land;

(2) overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products, including—

(A) pretreatment in combination with enzymatic or microbial hydrolysis; and

(B) thermochemical approaches, including gasification and pyrolysis;

(3) product diversification through technology development and application of the best technical resources; and

(4) an institution of higher education;

(5) a National Laboratory;

(6) a Federal research agency;

(7) a private sector entity; and

(8) a consortium of 2 or more entities described in paragraphs (a) through (6).

(g) ADMINISTRATION.—

“(1) IN GENERAL.—After consultation with the Board, the President shall—

(A) publish annually 1 or more requests for proposals for grants, contracts, and assistance under this section, an applicant shall—

(1) an institution of higher education;

(2) a National Laboratory;

(3) a Federal research agency;

(4) a State research agency;

(5) a private sector entity; and

(6) a nonprofit organization; or

(7) a consortium of 2 or more entities described in paragraph (a) through (6).

(2) DISTRIBUTION OF FUNDING BY TECHNICAL AREA.—Of the funds authorized to be appropriated for activities described in this section, funds shall be distributed for each fiscal year between 2007 through 2010 so as to achieve an approximate distribution of—

(1) 20 percent of the funds to carry out activities for feedstock production under subsection (d)(1); and

(2) 45 percent of the funds to carry out activities for overcoming recalcitrance of cellulosic biomass under subsection (d)(2); and

(3) 5 percent of the funds to carry out activities for strategic guidance under subsection (d)(4).

(iii) the methods, practices and technologies, for biobased industrial products; and

(3) DISTRIBUTE OF FUNDING WITHIN EACH TECHNICAL AREA.—Of the funds appropriated for activities described in paragraphs (1) through (3) of subsection (d), funds shall be distributed for each of
fiscal years 2007 through 2010 so as to achieve an approximate distribution of—

(A) 15 percent of the funds for applied fundamentals;

(B) 35 percent of the funds for innovation; and

(C) 50 percent of the funds for demonstration.

(4) MATCHING FUNDS.—

(A) IN GENERAL.—A minimum 20 percent funding match shall be required for demonstration projects under this title.

(B) COMMERCIAL APPLICATIONS.—A minimum of 50 percent funding match shall be required for commercial application projects under this title.

(5) TECHNOLOGY AND INFORMATION TRANSFER TO AGRICULTURAL USERS.—The Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall ensure that applicable research results and technologies from the Initiative are adapted, made available, and disseminated through those services, as appropriate.

(f) ANNUAL REPORTS.—Section 309 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “purposes described in section 307(b)” and inserting “objectives, purposes, and additional considerations described in subsections (b) through (e) of section 307”;

(ii) in subparagraph (B), by striking “and” and inserting “or” at the end;

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

“(C) achieves the distribution of funds described in paragraphs (2) and (3) of section 307(g); and”;

(B) in paragraph (2), by striking “industrial products” and inserting “fuels and biobased products”;

and

(2) by adding at the end following:

“(c) EDUCATION.—The Secretary and the Secretary of Energy shall update the Vision and Roadmap documents prepared for Federal biomass research and development activities.”.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 309(f)(1) of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended by striking “title §54,000,000 for each of fiscal years 2002 through 2007” and inserting “title §200,000,000 for each of fiscal years 2006 through 2015”.

(h) REPEAL OF SUNSET PROVISION.—Section 311 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is repealed.

SEC. 942. PRODUCTION INCENTIVES FOR CELLULOSIC BIOFUELS.

(a) PURPOSE.—The purpose of this section is to—

(1) accelerate deployment and commercialization of cellulosic biofuels;

(2) deliver the first 1,000,000,000 gallons in annual cellulosic biofuels production by 2015;

(3) ensure biofuels produced after 2013 are cost competitive with gasoline and diesel; and

(4) ensure that small feedstock producers and rural small businesses are full participants in the development of the cellulosic biofuels industry.

(b) DEFINITIONS.—In this section:

(1) CELLULOSIC BIOFUELS.—The term “cellulosic biofuels” means any fuel that is produced from cellulosic feedstocks.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means a producer of fuel from cellulosic biofuels the production facility of which—

(A) is located in the United States;

(B) meets all applicable Federal and State permitting requirements; and

(c) meets any financial criteria established by the Secretary.

(c) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Defense, and the Administrator of the Environmental Protection Agency, shall establish an incentive program for the production of cellulosic biofuels.

(2) BASIS OF INCENTIVES.—Under the program, the Secretary shall award production incentives on a per gallon basis of cellulosic biofuels from eligible entities, determined by the Secretary, until initiation of the first reverse auction; and

(B) reverse auction thereafter.

(3) FIRST REVERSE AUCTION.—The first reverse auction shall be held on the earlier of—

(A) not later than 1 year after the first year of annual production in the United States of 100,000,000 gallons of cellulosic biofuels, as determined by the Secretary; or

(B) not later than 3 years after the date of enactment of this Act.

(4) REVERSE AUCTION PROCEDURE.—

(A) IN GENERAL.—On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels by the Secretary, or 10 years after the date of enactment of this Act, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(B) AMOUNT OF INCENTIVE RECEIVED.—An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive requested in the auction for each gallon produced by the entity during the first 6 years of operation.

(5) REVERSE AUCTION PROCEDURE.

(a) IN GENERAL.—On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels by the Secretary, or 10 years after the date of enactment of this Act, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(b) AMOUNT OF INCENTIVE RECEIVED.—An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive requested in the auction for each gallon produced by the entity during the first 6 years of operation.

(c) COMMENCEMENT OF PRODUCTION OF CELLULOSIC BIOFUELS.—As a condition of the receipt of funding under this section, an eligible entity shall enter into an agreement with the Secretary under which the eligible entity agrees to begin production of cellulosic biofuels not later than 3 years after the date of the reverse auction in which the eligible entity participates.

(d) LIMITATIONS.—Awards under this section shall be limited to—

(1) a per gallon amount determined by the Secretary during the first 4 years of the program;

(2) a declining per gallon cap over the remaining lifetime of the program, to be established by the Secretary so that cellulosic biofuels produced after the first year of annual cellulosic biofuels production in the United States in excess of 1,000,000,000 gallons are cost competitive with gasoline and diesel;

(3) not more than 25 percent of the funds committed within each reverse auction to any 1 project;

(4) not more than $100,000,000 in any 1 year; and

(5) not more than $1,000,000,000 over the lifetime of the program.

(e) PRIORITY.—In selecting a project under the program, the Secretary shall give priority to projects that—

(1) demonstrate outstanding potential for local and regional economic development;
and certification purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity eligible for a grant under this section is any manufacturer of biobased products that—

(A) proposes to use the grant for the biobased product marketing and certification purposes described in subsection (b); and

(B) has not previously received a grant under this section.

(2) ELIGIBILITY.—In making grants under this section, the Secretary shall provide a preference to an eligible entity that has fewer than 50 employees.

(c) BIOBASED PRODUCT MARKETING AND CERTIFICATION GRANT PURPOSES.—A grant made under this section shall be used—

(1) to provide working capital for marketing of biobased products; and

(2) to provide for the certification of biobased products to—

(A) qualify for the label described in section 9002(h)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1812(h)(1)); or

(B) meet other biobased standards determined appropriate by the Secretary.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of each grant.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) AMOUNT.—A grant made under this section shall not exceed $100,000.

(f) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

SEC. 946. BIODEGRADABLE AND BIODERIVATIVE PRODUCTS MARKETING AND HARVESTING DEMONSTRATION GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ‘‘Secretary’’) shall make grants (referred to in this section as ‘‘grants’’) to provide working capital for marketing and using biobased products and for the purposes described in subsection (c); and

(b) LIMITATIONS ON GRANTS.—

(1) NUMERI OF GRANTS.—Not more than 5 demonstration projects per fiscal year shall be funded under this section.

(2) NON-FEDERAL COST SHARE.—The non-Federal cost share of a project under this section shall be not less than 20 percent, as determined by the Secretary.

(3) CONDITION OF GRANT.—To be eligible for a grant under this section, a recipient of a grant or a participating entity shall agree to use the material harvested under the project—

(A) to provide working capital for marketing of biobased products; and

(B) for another purpose, such as the generation of renewable energy.

(d) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

SEC. 947. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary of Agriculture shall establish, within the Department of Agriculture (referred to in this section as the ‘‘Secretary’’), a program of education and outreach on biobased fuels and biobased products consisting of—

(1) training and technical assistance programs for feedstock producers to promote producer ownership, investment, and participation in the operation of processing facilities; and

(2) public outreach to familiarize consumers with the biobased fuels and biobased products.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

SEC. 948. REPORTS.

(a) BIOBASED PRODUCT POTENTIAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ‘‘Secretary’’) shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the economic potential for the United States of the widespread production and use of commercial and industrial biobased products through calendar year 2025; and

(2) as the maximum extent practicable, identifies the economic potential by product area.

(b) ANALYSIS OF ECONOMIC INDICATORS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an analysis of economic indicators of the biobased economy.

Subtitle E—Nuclear Energy

SEC. 951. NUCLEAR ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research, development, demonstration, and commercial application, including activities described in this subtitle. Programs under this subtitle shall take into consideration the following objectives:

(1) Promoting nuclear power as a part of the United States energy portfolio.

(2) Providing the technical means to reduce the likelihood of nuclear proliferation.

(3) Maintaining a cadre of nuclear scientists and engineers.

(4) Developing national and university nuclear programs, including their infrastructure.

(5) Supporting both individual researchers and multidisciplinary teams of researchers to pursue new approaches in nuclear energy, science, and technology.

(6) Developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers.

(7) Supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants.

(8) Reducing the environmental impact of nuclear energy-related activities.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CORE PROGRAMS.—There is authorized to be appropriated to the Secretary to carry out nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (c)—

(1) $335,000,000 for fiscal year 2007;

(2) $355,000,000 for fiscal year 2008; and

(3) $405,000,000 for fiscal year 2009.

(c) NUCLEAR INFRASTRUCTURE AND FACILITIES.—There are authorized to be appropriated to the Secretary to carry out activities under section 955—

(1) $15,000,000 for fiscal year 2007;

(2) $19,000,000 for fiscal year 2008; and

(3) $22,000,000 for fiscal year 2009.

(d) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 953—

(A) $150,000,000 for fiscal year 2007; and

(B) $155,000,000 for fiscal year 2008; and

(C) $275,000,000 for fiscal year 2009.

(2) For activities under section 954—

(A) $43,600,000 for fiscal year 2007; and

(B) $50,100,000 for fiscal year 2008; and

(C) $56,000,000 for fiscal year 2009.

(3) For activities under section 957, $6,000,000 for each of fiscal years 2007 through 2009.

SEC. 952. NUCLEAR ENERGY RESEARCH GRANTS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY SYSTEMS SUPPORT PROGRAM.—The Secretary shall carry out a Nuclear Energy Systems Support Program to support research and development activities addressing reliability, availability, productivity, component aging, safety, and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations of the Nuclear Energy Research Advisory Committee of the Department in the report entitled ‘‘A Roadmap to Deploy New Nuclear Power Plants in the United States by 2035’’

(2) ADMINISTRATION.—The Program shall include—

(A) use of the expertise and capabilities of independent institutions of higher education, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;
(B) consideration of a variety of reactor designs suitable for both developed and developing nations;
(C) participation of international collaborators in research, development, and design efforts, as appropriate; and
(D) encouragement for participation by institutions of higher education and industry.

(d) Generation IV Nuclear Energy Systems Initiative.—

(1) In general.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan for and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application.

(2) Administration.—In conducting the Initiative, the Secretary shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that:

(A) are economically competitive with other electric power generating plants;
(B) have the higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;
(C) use fuels that are proliferation resistant and have substantially reduced production of high-level waste and actinides;
(D) use improved instrumentation.

(e) Reactor Production of Hydrogen.—The Secretary shall conduct research and development to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen.

SEC. 953. ADVANCED FUEL CYCLE INITIATIVE.

(a) In general.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research, development, and demonstration program (referred to in this section as the “program”) to evaluate proliferation-resistant fuel recycling and transmutation technologies that minimize environmental and public health and safety impacts of nuclear power, including dismantling and upgrading reactors, including through the provision of technical assistance; and

(b) Reactions improvements as part of a taking into consideration effort that emphasizes research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(f) Operations and Maintenance.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a reactor facility at a university used in the project.

(g) Definition.—In this section, the term “junior faculty” means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in subsection (b)(2).

SEC. 955. DEPARTMENT OF ENERGY CIVILIAN NUCLEAR INFRASTRUCTURE AND FACILITIES.

(a) In general.—The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

(b) Duties.—In carrying out this section, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment, with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

SEC. 961. FOSSIL ENERGY.

(a) In general.—The Secretary shall carry out research, development, demonstration, and (1) evaluate the facilities planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are engaged in addressing the Department’s core missions of the Department related to civilian nuclear energy research and development.

(2) the security of nuclear facilities from deliberate attacks.

(b) Annual review.—The Secretary shall submit an annual review of the nuclear energy research, development, and demonstration programs, including radiological facilities management, to Congress.

(c) Consistency.—The Secretary shall ensure that the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, are consistent with the Department’s core missions of the Department related to civilian nuclear energy research and development.

(d) Plan.—Not later than August 1, 2006, the Secretary shall submit to Congress a report describing the details of the Department’s core mission plan.
commercial application programs in fossil energy, including activities under this subtitle, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy usage, conversion, and consumption. Such programs take into consideration the following objectives:

(1) Increasing the energy conversion efficiency of all forms of fossil energy through improved technologies;

(2) Decreasing the cost of all fossil energy production, generation, and delivery;

(3) Increasing the United States energy security;

(4) Decreasing the dependence of the United States on foreign energy supplies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each fiscal year beginning after September 30, 2007, the following sums:

(A) $611,000,000 for fiscal year 2007;

(B) $626,000,000 for fiscal year 2008 and

(C) $461,000,000 for fiscal year 2009.

(2) E FFICACY OF MERCURY REMOVAL TECHNOLOGY.—In carrying out programs authorized by subsection (a), the Secretary shall conduct a program of research, development, demonstration, and commercial application programs in fossil energy technologies, including, among others:

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal and advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(3) Research and development programs carried out under this section shall:

(A) be guided by the mining research and development program established under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d); $25,000,000 for each of fiscal years 2007 through 2009.

(b) AUTHORIZATION OF APPROPRIATIONS.—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 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2007 through 2009.

(b) COOPERATION.—In carrying out the program authorized under subsection (a), the Secretary shall cooperate with other Federal, State, and local governments, and with States, private entities, and coal producers.

(c) N ATURAL GAS AND OIL DEPOSITS RESEARCH PROGRAMS.

(1) ESTABLISHMENT.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including:

(i) exploration and production;

(ii) gas hydrates;

(iii) reservoir life and extension;

(iv) transportation and distribution infrastructure;

(v) ultraclean fuels;

(vi) heavy oil, oil shale, and tar sands; and

(vii) related environmental research.

(2) OBJECTIVES.—The objectives of this program shall include advancing the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas reserves.

(d) C OAL MINING TECHNOLOGIES.

(1) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 961(b), the following sums are authorized for activities described in subsection (a)(2): $35,000,000 for fiscal year 2006; $30,000,000 for fiscal year 2007; and $35,000,000 for fiscal year 2008.

SEC. 964. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies.

(b) COOPERATION.—In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education, and energy producers, and other relevant entities.

(c) PROGRAM.—The research and development activities carried out under this section shall:

(A) be aimed at reducing the cost of coal recovery and increasing the efficiency of coal recovery, including coalbed methane; and

(B) foster collaboration and coordination among the different components of the research and development community.

(d) LIMITATIONS.—None of the funds authorized under this section shall be used for activities that do not meet the performance goals established by the Secretary.

(e) REPORT.—After the fiscal year 2009, the Secretary shall submit to Congress a report describing the activities carried out under this section.

(f) E F FICACY OF MERCURY REMOVAL TECHNOLOGY.—In carrying out the program under subsection (a), the Secretary shall examine the efficacy of mercury removal technologies on coals described in the paragraph that are blended with other types of coal.

(g) FUEL CELLS.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(h) DEMONSTRATIONS.—The demonstrations referred to in paragraph (1) shall include solid oxide fuel cell technology for commercial, residential, and transportation applications, and distributed generation systems, using improved manufacturing production and processes.

SEC. 965. CARBON CAPTURE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a 10-year carbon capture research and development program to develop carbon dioxide capture technologies on combustion-based systems for use for—

(1) in new coal utilization facilities; and

(2) on the fleet of coal-based units in existence as of the date of enactment of this Act by 2015.

(b) OBJECTIVES.—The objectives of the program under subsection (a) shall be—

(1) to develop carbon dioxide capture technology that minimizes greenhouse gas emissions, and

(2) to develop carbon dioxide capture processes that are energy-efficient and environmentally beneficial.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 964(b), the following sums are authorized for activities described in subsection (a)(2): $95,000,000 for fiscal year 2006; $90,000,000 for fiscal year 2007; and $95,000,000 for fiscal year 2008.

SEC. 966. CONSTRUCTION OF CARBON CAPTURE AND STORAGE FACILITIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program to carry out a demonstration project for the storage of carbon dioxide in the earth. The Secretary shall carry out the demonstration project in cooperation with other appropriate Federal agencies, and shall submit to Congress a report on the latest estimates of natural gas and oil reserves, including estimates of natural gas and oil reserves and the identification of the goals; and

(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 966(b), the following sums are authorized for activities described in subsection (a)(2): $95,000,000 for fiscal year 2006; $90,000,000 for fiscal year 2007; and $95,000,000 for fiscal year 2008.
“SECTION 1. SHORT TITLE.

“*This Act may be cited as the ‘Methane Hydrate Research and Development Act of 2000’."

“SECTION 2. FINDINGS.

“Congress finds that—

(1) in order to promote energy independence and meet the increasing demand for energy, the United States will require a diversified portfolio of sources of energy; and

(2) according to the report submitted to Congress by the National Research Council entitled ‘Charting the Future of Methane Hydrate Research in the United States’, the total United States resources of gas hydrates have been estimated to be on the order of 200,000 trillion cubic feet; and

(3) according to the report of the National Commission on Energy Policy entitled ‘Ending the Energy Stalemate—A Bipartisan Strategy to Meet America’s Energy Challenge’, and dated December 2004, the United States may be endowed with over 1/4 of the methane hydrate deposits in the world; and

(4) according to the Energy Information Administration, a shortfall in natural gas supply from conventional and unconventional sources is expected to grow about 20% and

(5) the National Academy of Sciences states that methane hydrate may have the potential to alleviate the projected shortfall in the natural gas supply in the United States.

“SECTION 3. DEFINITIONS.

“In this Act:

(1) CONTRACT.—The term ‘contract’ means a procurement contract within the meaning of section 6303 of title 31, United States Code.

(2) COOPERATIVE AGREEMENT.—The term ‘cooperative agreement’ means a cooperative agreement within the meaning of section 6306 of title 31, United States Code.

(3) DIRECTOR.—The term ‘Director’ means the Director of the National Science Foundation.

(4) GRANT.—The term ‘grant’ means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

(5) INDUSTRIAL ENTERPRISE.—The term ‘industrial enterprise’ means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

(6) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

(8) SECRETARY OF COMMERCE.—The term ‘Secretary of Commerce’ means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

(9) SECRETARY OF DEFENSE.—The term ‘Secretary of Defense’ means the Secretary of Defense, acting through the Secretary of the Navy.

(10) SECRETARY OF THE INTERIOR.—The term ‘Secretary of the Interior’ means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

“SECTION 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

“(A) IN GENERAL.—(1) COMMENCEMENT OF PROGRAM.—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2003, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, and appropriate government agencies and organizations with knowledge and expertise in the natural gas hydrates field, to—

(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1); and

(B) provide scientific oversight for the methane hydrate program, including assessing progress toward program goals, evaluating program balance, and providing recommendations to enhance the quality of the program over time; and

(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—

“SECTION 5. METHANE HYDRATE RESOURCE RESEARCH FACILITY.

“A responsible, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Test Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

“SECTION 6. METHANE HYDRATE RESEARCH.

(1) CONTRACT.—The term ‘contract’ means a procurement contract within the meaning of section 6303 of title 31, United States Code.

(2) COOPERATIVE AGREEMENT.—The term ‘cooperative agreement’ means a cooperative agreement within the meaning of section 6306 of title 31, United States Code.

(3) DIRECTOR.—The term ‘Director’ means the Director of the National Science Foundation.

(4) GRANT.—The term ‘grant’ means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

(5) INDUSTRIAL ENTERPRISE.—The term ‘industrial enterprise’ means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

(6) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

(7) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

(8) SECRETARY OF COMMERCE.—The term ‘Secretary of Commerce’ means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

(9) SECRETARY OF DEFENSE.—The term ‘Secretary of Defense’ means the Secretary of Defense, acting through the Secretary of the Navy.

(10) SECRETARY OF THE INTERIOR.—The term ‘Secretary of the Interior’ means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

“SECTION 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

“(A) IN GENERAL.—(1) COMMENCEMENT OF PROGRAM.—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2003, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, and appropriate government agencies and organizations with knowledge and expertise in the natural gas hydrates field, to—

(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1); and

(B) provide scientific oversight for the methane hydrate program, including assessing progress toward program goals, evaluating program balance, and providing recommendations to enhance the quality of the program over time; and

(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—
“(i) an assessment of the methane hydrate research program; and

“(ii) an assessment of the 5-year research plan of the Department of Energy.

“(c) CONFLICTS OF INTEREST.—In appointing each member of the advisory panel established under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that the appointment of the member does not pose a conflict of interest with respect to the duties of the member under this Act.

“(d) MEETING.—The advisory panel shall—

“(1) meet initially at a time determined by the Secretary; and

“(2) meet biennially thereafter.

“(e) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

“(1) facilitate and develop partnerships among government, industrial enterprises, and institutions of higher education to research, identify, assess, and explore methane hydrate resources;

“(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

“(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

“(4) promote cooperation among agencies that are developing technologies that may hold promise for future resource development;

“(5) report annually to Congress on the results of actions taken to carry out this Act; and

“(6) ensure, to the maximum extent practicable, greater participation by the Department of Energy in international cooperative efforts.

“SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.

“(a) AGREEMENT FOR STUDY.—The Secretary shall enter into an agreement with the National Research Council under which the National Research Council shall—

“(1) conduct a study of the progress made under the methane hydrate research and development program implemented under this Act; and

“(2) make recommendations for future methane hydrate research and development.

“(b) REPORT.—Not later than September 30, 2009, the Secretary shall submit to Congress a report containing the findings and recommendations of the National Research Council under this section.

“SEC. 6. REPORTS AND STUDIES FOR CONGRESS.

“The Secretary shall provide to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of any report or study that the Department of Energy prepares at the direction of any committee of Congress relating to the methane hydrate research and development program implemented under this Act.

“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary for the purpose of carrying out this Act, to remain available until expended—

“(1) $15,000,000 for fiscal year 2006;

“(2) $20,000,000 for fiscal year 2007;

“(3) $30,000,000 for fiscal year 2008;

“(4) $40,000,000 for fiscal year 2009; and

“(5) $50,000,000 for fiscal year 2010.


“SUBTITLE G—Science

“SEC. 971. SCIENCE.

“(a) IN GENERAL.—The Secretary shall conduct, through a program of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific and computing research, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infrastructure, research, development, demonstration, information, analysis, and coordination activities.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out 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 976(b) and including basic energy sciences, advanced scientific and computing research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support),

“(1) $1,453,000,000 for fiscal year 2007;

“(2) $1,586,000,000 for fiscal year 2008; and

“(3) $5,200,000,000 for fiscal year 2009.

“(c) ALLOCATION.—The amounts authorized under subsection (b), the following sums are authorized:

“(1) For activities under the Fusion Energy Sciences program (including activities under section 972c—

“(A) $355,500,000 for fiscal year 2007;

“(B) $369,000,000 for fiscal year 2008;

“(C) $384,000,000 for fiscal year 2009; and

“(d) in addition to the amounts authorized under subparagraphs (A), (B), and (C), such sums as may be necessary for ITER construction, consistent with the limitations of section 972c((5))

“(2) For activities under the catalysis research program under section 973—

“(A) $36,500,000 for fiscal year 2007;

“(B) $38,200,000 for fiscal year 2008; and

“(C) such sums as may be necessary for fiscal year 2009.

“(3) For activities under the Systems Biology research program under section 974—

“(A) $15,000,000 for each of fiscal years 2007 through 2009.

“(4) For activities under the Energy and Water Supplies program under section 979, $30,000,000 for each of fiscal years 2007 through 2009.

“(5) For the fusion research fellowships programs under section 984, $40,000,000 for each of fiscal years 2007 through 2009.

“(6) For the advanced scientific computing activities under section 976—

“(A) $270,000,000 for fiscal year 2007;

“(B) $300,000,000 for fiscal year 2008; and

“(C) $375,000,000 for fiscal year 2009.

“(7) For the science and engineering education pilot program under section 983—

“(A) $4,000,000 for each of fiscal years 2007 and 2008; and

“(B) $8,000,000 for fiscal year 2009.

“(d) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—In addition to amounts otherwise authorized by this section, there are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, $50,000,000 for each of the fiscal years 2005 through 2009. Activities funded under this subsection shall be coordinated with ongoing programs of other Federal agencies and the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for education and activities targeted to minority and socially disadvantaged farmers and ranchers.

“SEC. 972. FUSION ENERGY SCIENCES PROGRAM.

“(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application activities to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy. To this end, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

“(A) existing fusion research facilities are more fully used;

“(B) fusion science, technology, theory, analysis, and simulation are strengthened;

“(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

“(D) facilities that are selected are funded at a cost-effective rate;

“(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

“(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

“(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

“(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce planning, dated March 2004, are carried out, including periodic reassessment of program needs.

“(b) COSTS AND SCHEDULES.—The plan shall also address the status of and, to the extent practicable, costs and schedules for—

“(1) the design and implementation of international or national facilities for the testing of fusion materials; and

“(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

“(c) UNITED STATES PARTICIPATION IN ITER.—

“(1) DEFINITIONS.—In this subsection:

“(A) CONSTRUCTION.—

“(i) IN GENERAL.—The term ‘construction’ means—

“(I) the physical construction of the ITER facility; and

“(II) the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility.

“(ii) EXCLUSIONS.—The term ‘construction’ does not include the design of the facility, equipment, or components.

“(B) ITER.—The term ‘ITER’ means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

“(2) PARTICIPATION.—The United States may participate in the ITER only in accordance with this subsection.

“(3) AGREEMENT.—

“(A) IN GENERAL.—The Secretary may negotiate and enter into an agreement for United States participation in the ITER.

“(B) CONTENTS.—Any agreement for United States participation in the ITER shall, at a minimum—

“(i) clearly define the United States financial contribution to construction and operating
costs, as well as any other costs associated with a project; (ii) ensure that the share of high-technology components of the ITER manufactured in the United States is at least proportionate to the United States financial contribution to the ITER; (iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries; (iv) guarantee the United States full access to all data generated by the ITER; (v) enable United States researchers to propose and carry out an equitable share of the experiments at the ITER; (vi) maintain United States with a role in all collective decisionmaking related to the ITER; and (vii) describe the process for discontinuing or decommisioning the ITER and any United States role in that process.

(4) PLAN.—
(A) DEVELOPMENT.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in the ITER that shall include—
(i) the United States research agenda for the ITER;
(ii) methods to evaluate whether the ITER is promoting progress toward making fusion a reliable and affordable source of power; and
(iii) a description of how work at the ITER will relate to other elements of the United States fusion program.
(B) REVIEW.—The Secretary shall request a review of the plan by the National Academy of Sciences.

(5) LIMITATION.—No Federal funds shall be expended for the construction of the ITER until the Secretary has submitted to Congress—
(A) the agreement negotiated in accordance with paragraph (3) and 120 days have elapsed since that submission;
(B) a report describing the management structure of the ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of the ITER, and 120 days have elapsed since that submission;
(C) a report describing how United States participation in the ITER will be funded without reducing other donor programs in the Office of Science (including other fusion programs), and 60 days have elapsed since that submission; and
(D) the plan required by paragraph (4) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that submission.

(6) ALTERNATIVE TO ITER.—
(A) IN GENERAL.—If at any time during the negotiations on the ITER, the Secretary determines that construction and operation of the ITER is unlikely or infeasible, the Secretary shall submit to Congress, along with the budget request of the President submitted to Congress for the following fiscal year, a plan for implementing a domestic burning plasma experiment such as the Fusion Ignition Research Experiment, including costs and schedules for the plan.
(B) ADMINISTRATION.—The Secretary shall—
(i) refine the plan in full consultation with the Fusion Energy Sciences Advisory Committee; and
(ii) transmit the plan to the National Academy of Sciences for review.

SEC. 973. CATALYSIS RESEARCH PROGRAM.
(a) ESTABLISHMENT.—The Secretary, through the Office of Science, shall support a program of research and development in catalysis science consistent with the statutory authorities of the Department related to research and development.
(b) COMPONENTS.—The program shall include efforts to—
(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;
(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and subnanometer scales in situ under actual operating conditions;
(3) design catalysts with specific site architectures;
(4) conduct research on the use of precious metals for catalytic applications;
(5) translate molecular understanding to the design of catalytic compounds.

SEC. 974. HYDROGEN.
(a) IN GENERAL.—The Secretary shall conduct a program of fundamental research and development in support of programs authorized under title VIII.
(b) METHODS.—The program shall include support for methods of generating hydrogen without the use of natural gas.

SEC. 975. SOLID STATE LIGHTING.
The Secretary shall conduct a program of fundamental research on solid state lighting in support of the Next Generation Lighting Initiative carried out under section 912.

SEC. 976. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.
(a) PROGRAM.—
(1) IN GENERAL.—The Secretary shall conduct an advanced scientific computing research and development program that includes activities relevant to advanced applied mathematics and activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5523) and sec.
(2) GOAL.—The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computing infrastructure, data management, visualization technologies, and workforce resources that are required for world leadership in science.
(b) HIGH-PERFORMANCE COMPUTING.—Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended to read as follows:

SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.
(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—
(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science and engineering disciplines related to energy applications;
(2) provide computing and networking infrastructure support, including—

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to enter into arrangements with the Secretary of Energy such sums as are necessary to carry out this section.

SEC. 977. SYSTEMS BIOLOGY PROGRAM.
(a) PROGRAM.—
(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in microbial and plant systems biotechnology to support the energy, national security, and environmental missions of the Department.
(2) GRANTS.—The program shall support individual researchers, multidisciplinary teams of researchers through competitive, merit-reviewed grants.
(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.
(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—
(1) can facilitate the production of fuels, including hydrogen;
(2) convert carbon dioxide to organic carbon;
(3) detoxify soils and water, including at facilities of the Department, contaminated with heavy metals and radiological materials; and
(4) address other Department missions as identified by the Secretary.
(c) PLAN.—
(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).
(2) REVIEW OF PLAN.—The Secretary shall submit the plan to the Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary’s response to the comments submitted during the review.
(d) USER FACILITIES AND ANCILLARY EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subtitile, amounts shall be available for projects to provide computer facilities, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities at National Laboratories, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.
(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—
(1) NO BIOMEDICAL RESEARCH.—In carrying out this program, the Secretary shall not conduct biomedical research.
(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—
(A) on human cells or human subjects; or
(B) designed to have direct application with respect to human cells or human subjects.

SEC. 978. PROTEXION AND INCORPORATION MATERIALS RESEARCH PROGRAM.
(a) IN GENERAL.—Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.
(b) ADMINISTRATION.—In carrying out the program, the Secretary shall develop—
(a) A catalog of material properties required for applications described in subsection (a); (b) theoretical models for materials possessing the required properties; (c) benchmark models against existing data; and (d) any changes in estimated Project costs or schedule.

SEC. 983. SCIENCE AND ENGINEERING EDUCATION PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall award a grant to a Southeastern University Consortium consisting of universities that currently advances science and education by partnering with National Laboratories, to establish a regional pilot program of its SEEK-16 program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decision-making. The Secretary shall include postsecondary institutions, K-12 schools, and other educational institutions that train substantial numbers of elementary and secondary school teachers, and (where appropriate) National Laboratories.

(b) PROGRAM ELEMENTS.—The regional pilot program shall include—

(1) expanding strategic, formal partnerships among educational institutions; (ii) expanding scientific and technical support to enable students to formulate, test, and apply ideas at their academic level; (iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility; (B) a comparison of actual costs to estimated project costs, of which (1) the SING, (ii) the SNS power upgrade; and (iv) the SNS second target station.

SEC. 984. ENERGY RESEARCH FELLOWSHIPS.—

The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers pursuing doctoral appointments in energy research and development at institutions of higher education of their choice.

(a) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers pursuing doctoral appointments in energy research and development at institutions of higher education of their choice.

(b) SENIOR RESEARCH FELLOWSHIPS.—(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers pursuing doctoral appointments in energy research and development at institutions of higher education of their choice.

(c) REQUIREMENTS.—In providing a fellowship under the program described in paragraph (1), the Secretary shall take into account—

(1) expanding strategic, formal partnerships among educational institutions; (ii) expanding scientific and technical support to enable students to formulate, test, and apply ideas at their academic level; (iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility; (B) a comparison of actual costs to estimated project costs, of which (1) the SING, (ii) the SNS power upgrade; and (iv) the SNS second target station.

SEC. 984A. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) PROGRAM ELEMENTS.—The regional pilot program shall include—

(1) expanding strategic, formal partnerships among educational institutions; (ii) expanding scientific and technical support to enable students to formulate, test, and apply ideas at their academic level; (iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility; (B) a comparison of actual costs to estimated project costs, of which (1) the SING, (ii) the SNS power upgrade; and (iv) the SNS second target station.

SEC. 985. INDEPENDENT RESEARCH FELLOWSHIPS.—

The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers pursuing doctoral appointments in energy research and development at institutions of higher education of their choice.

(a) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers pursuing doctoral appointments in energy research and development at institutions of higher education of their choice.

(b) REQUIREMENTS.—In providing a fellowship under the program described in paragraph (1), the Secretary shall take into account—

(1) expanding strategic, formal partnerships among educational institutions; (ii) expanding scientific and technical support to enable students to formulate, test, and apply ideas at their academic level; (iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility; (B) a comparison of actual costs to estimated project costs, of which (1) the SING, (ii) the SNS power upgrade; and (iv) the SNS second target station.

SEC. 986. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—

The Secretary shall establish the Office of Scientific and Technical Information, to maintain within the Department publicly available collections of scientific and technical information related to the management and operation of the Spallation Neutron Source, and to disseminate coalitions and, and commercial applications activities supported by the Department.
Subtitle H—International Cooperation

SEC. 985. WESTERN HEMISPHERE ENERGY CO-OPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to:

(1) increase the production of energy supplies;

(2) improve energy efficiency; and

(3) enhance the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere 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 and transfer of energy technologies.

(d) FUNDING.—The Secretary shall fund activities to work with countries of the Western Hemisphere to—

(1) evaluate the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2007;

(2) $13,000,000 for fiscal year 2008; and

(3) $16,000,000 for fiscal year 2009.

SEC. 986. COOPERATION BETWEEN UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress finds that—

(1) to establish a framework for collaboration between the United States and Israel in energy research and development activities under the Agreement;

(2) grid and network issues;

(3) climate change; and

(4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2007;

(2) $13,000,000 for fiscal year 2008; and

(3) $16,000,000 for fiscal year 2009.

SEC. 987. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

SEC. 988. COST SHARING.

(a) APPLICABILITY.—Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application program or activity that is initiated after the effective date of this section, the Secretary shall require cost-sharing in accordance with this section.

(b) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (f), the Secretary shall require that not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) EXCLUSION.—Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of fundamental nature, as determined by the appropriate officer of the Department.

(3) REDUCTION.—The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than 20 percent of the cost of a demonstration or commercial application activity described in subsection (a) to be provided by a non-Federal source.

(2) REDUCTION.—The Secretary shall require that the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate.

(d) REPLICATION OF FEDERAL SHARE.—The Secretary may reduce or eliminate the requirement of paragraph (2) if the Secretary determines the reduction to be necessary and appropriate.

(e) RECOVERY OF FEDERAL SHARE.—The Secretary shall require not less than 20 percent of the cost of a demonstration or commercial application activity to be provided by a non-Federal source.

(f) ELIMINATION OF REQUIREMENT.—The Secretary may eliminate the requirement of paragraph (1) for a research and development activity described in subsection (a) if the Secretary determines that the reduction is necessary and appropriate.

(g) DISCUSSION OF AMOUNT.—In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with applicable rules of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs;

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act); and

(2) shall not include in the calculation:—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

Sec. 990. External Technical Review of Department Programs.

(a) National Energy Research and Development Advisory Board—

(1) Establishment.—The Secretary shall establish 1 or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) Alternatives.—The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under paragraph (1); and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) Use of Existing Committees.—The Secretary shall continue to use the scientific program advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.) to review the scientific programs of the Department, and shall continue to use the scientific program advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.) to review and advise on the progress made by the respective 1 or more research, development, demonstration, and commercial application programs under that Office.

(c) Membership.—Each advisory board under this section shall consist of persons with appropriate experience representing a diverse range of interests.

(d) Meetings and Goals.—

(1) Meetings.—Each advisory board under this section shall meet at least semianually to review and advise on the progress made by the respective 1 or more research, development, demonstration, and commercial application programs.

(2) Goals.—The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 902, and the progress on meeting the goals.

(e) Periodic Reviews and Assessments.—

(1) General.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the research, development, demonstration, and commercial application programs authorized by this Act and amendments made by this Act;
(B) the measurable cost and performance-based goals for the programs as established under section 902, if any; and
(C) the progress on meeting the goals.
(2) The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.
(3) The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

SEC. 991. NATIONAL LABORATORY DESIGNATION.
After the date of enactment of this Act, the Secretary shall not designate a facility that is not listed in section 2(3) as a National Laboratory.

SEC. 992. REPORT ON EQUAL EMPLOYMENT OPPORTUNITIES.
Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—
(1) a thorough review of each National Laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;
(2) a statistical report on complaints and their disposition in the National Laboratories;
(3) a description of how equal employment opportunity practices at the National Laboratories are treated in the contract and in calculating award fees for each contractor;
(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each National Laboratory;
(5) a summary of outreach efforts to attract women and minorities to the National Laboratories;
(6) a summary of efforts to retain women and minorities in the National Laboratories; and
(7) a summary of collaboration efforts with the Office of Science and their subsequent programs to improve equal employment opportunity practices at the National Laboratories.

SEC. 993. STRATEGY AND PLAN FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.
(a) FACILITY AND INFRASTRUCTURE POLICY.—
(1) IN GENERAL.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy. Science and Technology Programs at all National Laboratories and single-purpose research facilities.
(2) The strategy shall provide cost-effective means for—
(A) maintaining existing facilities and infrastructure;
(B) closing unneeded facilities;
(C) making facility modifications; and
(D) building new facilities.

(b) REPORT.—
(1) IN GENERAL.—The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2008, a report describing the strategy developed under subsection (a).
(2) CONTENTS.—For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—
(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule estimates;
(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;
(C) the current total budget for all facilities and infrastructure funding; and
(D) a description of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 994. STRATEGIC RESEARCH PORTFOLIO ANALYSIS AND COORDINATION PLAN.
(a) IN GENERAL.—The Secretary shall periodically review all of the science and technology activities of the Department in a strategic framework that takes into account both the Department's major research areas and the frontiers of scientific research that can contribute and the national needs relevant to the Department's statutory missions.
(b) COORDINATION ANALYSIS AND PLAN.—As part of the review under subsection (a), the Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial applications activities across Department organizational boundaries.
(c) PLAN CONTENTS.—The plan shall describe—
(1) cross-cutting scientific and technical issues and research questions that span more than 1 program or major office of the Department;
(2) how the applied technology programs of the Department are coordinating their activities, and addressing those questions;
(3) ways in which the technical interchange within the Department, particularly between the Office of Science and the applied technology programs, can be enhanced, including ways in which the research agendas of the Office of Science and the applied programs can interact and assist each other;
(4) a description of how the Secretary will ensure that the Department's overall research agenda is consistent with fundamental, curiosity-driven research, fundamental research related to topics of concern to the applied programs, and applications in Departmental technology programs. The results generated by fundamental, curiosity-driven research;
(5) the measurable cost and performance-based goals for the programs as established under subsection (a) and the coordination plan under subsection (b);
(6) the strategy for addressing and coordinating the reconfiguration of its facilities and infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practical;
(7) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;
(8) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and
(9) recommendations for new local, regional, and State permitting and building codes to ensure transportation and use of materials to efficiently use energy when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—
(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and related transportation infrastructure engineering in the Arctic region; and
(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be used.
(d) AMOUNT OF GRANT.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

SEC. 995. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.
None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), and (O) of section 5301 of title 42) that is not competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall promptly notify the Secretary of the action taken.

SEC. 996. WESTERN MICHIGAN DEMONSTRATION PROJECT.
The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration project shall address current and projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .085 based on years 2000 to 2002 or the most current data. The Administrator shall assess any difficulties such areas may experience in meeting the 8-hour national ambient air quality standard for ozone and the 1-hour national ambient air quality standard for ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport into these areas and to determine the timeframe in which such compliance could take place. The Administrator shall then submit a report no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction under the Clean Air Act (42 U.S.C. 7401 et seq.) that might otherwise apply during the pendency of the demonstration project.

SEC. 997. ARCTIC ENGINEERING RESEARCH CENTER.
(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Commerce and the United States Arctic Research Commission, shall provide annual funding for an Arctic Engineering Research Center located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Anchorage and the "Arctic Engineering Research Center" (referred to in this section as the “Center”).
(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—
(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practicable;
(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region; and
(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

SEC. 998. BARROW GEOPHYSICAL RESEARCH FACILITY.
(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Education and the Interior, the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the “Barrow Geophysical Research Facility”, to support scientific research activities in the Arctic.
(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.
Subtitle J—Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources

SEC. 999A. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall carry out the activities under subtitle J relating to ultra-deepwater and unconventional natural gas and other petroleum resources exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) PROGRAM ELEMENTS.—The program under this subtitle shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Unconventional natural gas and other petroleum resource exploration and production technology.

(3) The technology challenges of small producers.

(4) Complementary research performed by the National Energy Technology Laboratory for the Department.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this subtitle shall be carried out only—

(1)—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas offshore in the United States on public land administered by the Secretary of the Interior; or

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on State or private land, subject to applicable law; and

(c) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this subtitle, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 999B. ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

(a) In General.—The Secretary shall carry out the activities under section 999A, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—(1) In General.—The Secretary shall contract with or otherwise collaborate with a consortium to administer the programmatic activities outlined in this chapter. The program consortium shall—

(1)(i) develop and submit to the Secretary an annual plan, including those of his or her spouse or

(2) subcontracts with a corporation that is structured as a cooperative, joint venture, or other organization.

(3) COMPLIANCE WITH STATE OR PRIVATE LAND ADMINISTRATION.—The Secretary shall carry out the activities under section 999H(d)(3) of this title for onshore or offshore petroleum resources exploration and production, within areas subject to State or private land administration, consistent with applicable law and land use planning and managing research, development, demonstration, and other activities complementary to and supportive of the research programs under this subtitle.

(b) PROGRAM ADMINISTRATION.—The Secretary shall select the program consortium not later than 90 days after the date of enactment of this Act, the Secretary shall require. At a minimum, each program consortium shall—

(1) to ensure that each board member, officer, or employee of the program consortium who is in a decision-making capacity under subsection (f)(4) with respect to the research, development, demonstration, and other activities assigned to the program consortium, and employees with a financial relationship or interest disclosed under subsection (i); and

(2) to require any board member, officer, or employee of the program consortium who is in a decision-making capacity under subsection (f)(4) with respect to the research, development, demonstration, and other activities assigned to the program consortium, and employees with a financial relationship or interest disclosed under subsection (i); and

(c) CONFLICT OF INTEREST.—(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) REQUIREMENT.—The Secretary shall carry out the activities of the program consortium, consistent with applicable law and land use planning and managing research, development, demonstration, and other activities complementary to and supportive of the research programs under this subtitle.

(3) PROGRAM PLAN.—The Secretary shall carry out a program under this subtitle of research, development, demonstration, and other activities assigned to the program consortium, and employees with a financial relationship or interest disclosed under subsection (i); and

(2) in—

Awards from allocations under section 999H(d)(2) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir, low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraphs (2) and (3).

(2) DEVELOPMENT.—(A) CONSULTATION.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium to the Advisory Committee established under section 999D(a) and to the Unconventional Resources Technology Advisory Committee established under section 999D(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium, throughout the preparation of the annual plan.

(D) PUBLICATION.—The Secretary shall transmit the annual plan to Congress and publish in the Federal Register a notice of the availability of the annual plan, the written comments received under paragraphs (2) and (3).

(e) ANNUAL PLAN.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(1) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, which would be eligible to apply, selection criteria, and the duration of any award; and

(b) a description of the activities expected of the program consortium to carry out subsection (f).

(f) AWARDS.—(1) IN GENERAL.—Upon approval of the Secretary the program consortium shall make

(8) issue research project solicitations upon approval of the Secretary or the Secretary’s designee;

(9) make project awards to research performers upon approval of the Secretary or the Secretary’s designee;

(10) disburse research funds to research performers awarded under this section; and

(11) carry out other activities assigned to the program consortium

(g) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(h) CONFLICT OF INTEREST.—(1) IN GENERAL.—The Secretary shall select the program consortium through a competitive process.

(2) REQUIREMENT.—The Secretary shall carry out a program under this subtitle of research, development, demonstration, and other activities assigned to the program consortium, and employees with a financial relationship or interest disclosed under subsection (i); and

(2) in—

Awards from allocations under section 999H(d)(2) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir, low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraphs (2) and (3).

(2) DEVELOPMENT.—(A) CONSULTATION.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium to the Advisory Committee established under section 999D(a) and to the Unconventional Resources Technology Advisory Committee established under section 999D(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium, throughout the preparation of the annual plan.

(D) PUBLICATION.—The Secretary shall transmit the annual plan to Congress and publish in the Federal Register a notice of the availability of the annual plan, the written comments received under paragraphs (2) and (3).

(e) ANNUAL PLAN.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(1) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, which would be eligible to apply, selection criteria, and the duration of any award;

(b) a description of the activities expected of the program consortium to carry out subsection (f)

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(8) issue research project solicitations upon approval of the Secretary or the Secretary’s designee;

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(10) disburse research funds to research performers awarded under this section; and

(11) carry out other activities assigned to the program consortium

(g) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(h) CONFLICT OF INTEREST.—(1) IN GENERAL.—The Secretary shall select the program consortium through a competitive process.

(2) REQUIREMENT.—The Secretary shall carry out a program under this subtitle of research, development, demonstration, and other activities assigned to the program consortium, and employees with a financial relationship or interest disclosed under subsection (i); and

(2) in—

Awards from allocations under section 999H(d)(2) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir, low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraphs (2) and (3).

(2) DEVELOPMENT.—(A) CONSULTATION.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium to the Advisory Committee established under section 999D(a) and to the Unconventional Resources Technology Advisory Committee established under section 999D(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium, throughout the preparation of the annual plan.

(D) PUBLICATION.—The Secretary shall transmit the annual plan to Congress and publish in the Federal Register a notice of the availability of the annual plan, the written comments received under paragraphs (2) and (3).

(e) ANNUAL PLAN.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(1) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, which would be eligible to apply, selection criteria, and the duration of any award;

(b) a description of the activities expected of the program consortium to carry out subsection (f).
awards to research performers to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but provided that conflict of interest procedures in section 999B(c)(3) are followed, entities that are members of the program consortium are not precluded from receiving research awards as individual research performers or as research performers who are members of a research collaboration. (2) PROPOSALS.—Upon approval of the Secretary, the program consortium shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) OVERSIGHT.—
(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.
(B) END.—Nothing in paragraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this program, the Secretary shall provide to the program consortium funds sufficient to administer the research awards, or to limit the authority or responsibility of the Secretary to review or revoke awards.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) AUDIT.—The Secretary shall retain an independent public accountant to conduct an audit of each program administered under awards made under this subsection, that have been expended in a manner consistent with the purposes and requirements of this subtitle. The auditor shall transmit a report on the audit to the Secretary, who shall transmit the report to Congress, with a plan to remedy the deficiencies cited in the report, within 60 days of the receipt of the report.

(i) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, to the extent that such funds are made available to the program consortium, carry out programs of long-term research to complement the programs under this section.

(1) PROGRAM REVIEW AND OVERSIGHT.—The National Energy Technology Laboratory, on behalf of the Secretary, shall (1) issue a competitive solicitation for the program consortium, (2) evaluate, select, and award a contract or other agreement to a qualified program consortium, and (3) have primary review and oversight responsibility for the program consortium, including review and approval of research awards proposed by the program consortium to ensure that its activities are consistent with the purposes and requirements described in this subtitle. Up to 5 percent of program funds allocated under paragraphs (1) through (3) of section 999H(d) may be used for this purpose, including program direction and the establishment of a site office if determined to be necessary to carry out the requirements of this subsection.

SEC. 999C. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) DEMONSTRATION PROJECTS.—An application for an award under this subtitle for a demonstration project shall describe with specificity the intended commercial use of the technology to be developed.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 999AC(c), a demonstration project under this subtitle relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTERGOVERNMENTAL AGREEMENTS.—If an award under this subtitle is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a statement of the duties of the members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—2.5 percent of the amount of each award made under this subtitle shall be designated for technology transfer and outreach activities under this subtitle.

(e) COST SHARING FOR INDEPENDENT PRODUCERS.—In applying the cost sharing requirements under section 988 to an award under this subtitle the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project.

(f) INFORMATION SHARING.—All results of the research administered by the program consortium shall be available to the public consistent with Department policy and practice on information sharing and intellectual property agreements.

SEC. 999D. ADVISORY COMMITTEES.

(1) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The Advisory Committee under this subsection shall be composed of members appointed by the Secretary, including: 
(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;
(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;
(C) no individuals who are Federal employees; and
(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The Advisory Committee under this subsection shall—
(A) advise the Secretary on the development and implementation of programs under this subtitle related to conventional natural gas and other petroleum resources; and
(B) carry out the provisions of section 999B(e)(2)(B).

(4) COMPENSATION.—A member of the Advisory Committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(2) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 999E. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this subtitle only if the Secretary finds—

(i) that the entity’s participation in the program under this subtitle would be in the economic interest of the United States; and
(ii) that—
(A) the entity is a United States-owned entity organized under the laws of the United States; or
(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—
(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this subtitle;
(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and
(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 999F. SUNSET.

The authority provided by this subtitle shall terminate on September 30, 2014.

SEC. 999G. DEFINITIONS.

In this subtitle—

(D) DEEPWATER.—The term “deepwater” means a water depth that is greater than 200 but less than 1,500 meters.

(E) IN GENERAL.—The term “independent producer of oil or gas” means any person that produces oil or gas other than a person to whom subsection (c) of section 988A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 988A of such Code.

(F) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting “calendar year” for “taxable year” each place it appears in such paragraphs.

(G) PROGRAM ADMINISTRATION FUNDS.—The term “program administration funds” means funds used by the program consortium to administer the program under this subtitle, but not to exceed 10 percent of the total funds allocated under paragraphs (1) through (3) of section 999H(d).
(4) PROGRAM CONSORTIUM.—The term "program consortium" means the consortium selected under section 999B(d).

(5) PROGRAM RESEARCH FUNDS.—The term "program research funds" means funds awarded to research performers by the program consortium consistent with the annual plan.

(6) PROFESSIONAL.—The term "remote or inconsequential" has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b) of the United States Code.

(7) SMALL PRODUCER.—The term "small producer" means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(8) ULTRA-DEEPWATER.—The term "ultra-deepwater" means a water depth that is equal to or greater than 1,500 meters.

(9) ULTRA-DEEPWATER ARCHITECTURE.—The term "ultra-deepwater architecture" means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(10) ULTRA-DEEPWATER TECHNOLOGY.—The term "ultra-deepwater technology" means a discrete technology that is specially suited to address the technical challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(11) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term "unconventional natural gas and other petroleum resource" means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

SEC. 999H. FUNDING.

(a) OIL AND GAS LEASE INCOME.—For each of fiscal years 2007 through 2017, from any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.) which are deposited in the Treasury, and after distribution of any such funds as described in subsection (c), any $50,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the "Fund"). For purposes of this section, the term "royalties" excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)).

(b) FEDERAL AND STATE AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligations under this part without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal onshore oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Act of 1965 (16 U.S.C. 690–690c); and

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) other financial assistance program established under section 31 of the Outer Continental Shelf Lands Act (as amended by section 384).

(d) ALLOCATION.—Amounts obligated from the Fund under subsection (a)(1) in each fiscal year shall be allocated as follows:

(1) 35 percent shall be for activities under section 999A(b)(1);

(2) 32.5 percent shall be for activities under section 999A(b)(2);

(3) 25 percent shall be for activities under section 999A(b)(3);

(4) 25 percent shall be for complementary research, development, demonstration, and other activities under section 999A(b) to include program direction funds, overall program oversight, contract management, and the establishment and operation of a technology transfer system to ensure that in-house research activities funded under section 999A(b)(4) are technically complementary to, and not duplicative of, research conducted under paragraphs (1), (2), and (3) of section 999A(b).

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts that are made available to carry out this section, there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2007 through 2016.

(f) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the "Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund".

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1001. IMPROVED TECHNOLOGY TRANSFER FUNDING.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(b) QUALIFICATIONS.—The Coordinator shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(c) DUTIES OF THE COORDINATOR.—The Coordinator shall oversee—

(1) the activities of the Technology Transfer Working Group established under subsection (d);

(2) the expenditure of funds allocated for technology transfer within the Department;

(3) the activities of each technology partnership ormsmanship appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c); and

(4) efforts to engage private sector entities, including venture capital companies.

(d) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer 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, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(e) TECHNOLOGY COMMERCIALIZATION FUND.—The Secretary shall establish an Energy Technology Commercialization Fund, using 0.5 percent of the amount directed to the Department for energy research, development, demonstration, and commercial application for each fiscal year, to be used to match Federal Private Sector funding to promote promising energy technologies for commercial purposes.

(f) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section affects the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(g) PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a technology transfer execution plan.

(2) UPDATES.—Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (e).

SEC. 1002. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "research" means the Technology Infrastructure Program established under subsection (b).

(2) TECHNOLOGY CLUSTER.—The term "technology cluster" means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(3) TECHNOLOGY-RELATED BUSINESS CONCERN.—The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies; or

(D) performs technological services.

(b) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) PURPOSE.—The purpose of the Program shall be to improve the ability of National Laboratory and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns; and

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local government.

(d) PROJECTS.—The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through 1 or more projects that meet the requirements of subsections (e) and (f).

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Each project funded under this section shall meet the requirements of this subsection.

(2) ENTITIES.—Each project shall include at least 1 of each of the following entities:

(A) A business.

(B) An institution of higher education.

(C) A nonprofit institution.

(D) An agency of a State, local, or tribal government.

(3) COST-SHARING.—

(A) IN GENERAL.—The costs of carrying out projects under this section shall be shared in accordance with section 988.

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(B) SOURCES.—The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the effective date of the project.

(C) RESEARCH AND DEVELOPMENT EXPENSES.—Independent research and development expenses of Government contractors that qualify for reimbursement under part 210 of Title 41 of the Code of Federal Regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(4) DURATION.—A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) ACCOUNTING.—Any participant that receives funds under this section may generally account accepted principles for maintaining accounts, books, and records relating to the project.

(D) DURATION.—No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) SELECTION CRITERIA.—

(1) DEPARTMENTAL MISSIONS.—The Secretary shall allocate funds under this section only if the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve the stated technical success in meeting departmental missions.

(2) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the public which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-based businesses that can support the missions of the participating National Laboratory or single-purpose research facility and that will contribute to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or small businesses substantially in the project; and

(E) other criteria as the Secretary determines appropriate.

(g) ALLOCATION.

(E) such other criteria as the Secretary determines appropriate.

(2) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the public which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-based businesses that can support the missions of the participating National Laboratory or single-purpose research facility and that will contribute to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or small businesses substantially in the project; and

(E) other criteria as the Secretary determines appropriate.

(2) OTHER CRITERIA.—In allocating funds for projects approved under this section, the Secretary shall consider—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(b) USE OF FUNDS.—None of the funds expended under subsection (b) may be used to participate in procurement and collaborative research activities;

(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 a mechanism for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(h) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—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 small business concerns with—

(1) assistance directed at making the small business concerns more 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 products or services of the small business concern.

(i) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1003. 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 designate a small business advocate to—

(1) increase the participation of small business concerns in the research and development activities of the National Laboratory or single-purpose research facility, to designate a small business advocate to—

(2) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(3) establish a mechanism for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(b) 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 designate a small business advocate to—

(1) increase the participation of small business concerns in the research and development activities of the National Laboratory or single-purpose research facility, to designate a small business advocate to—

(2) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(3) establish a mechanism for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used to participate in procurement and collaborative research activities;

(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 a mechanism for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(d) 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 designate a small business advocate to—

(1) increase the participation of small business concerns in the research and development activities of the National Laboratory or single-purpose research facility, to designate a small business advocate to—

(2) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(3) establish a mechanism for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(e) AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1004. OUTREACH.

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 1005. RELATIONSHIP TO OTHER LAWS.

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 1731 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);


(5) the Small Business Act (commonly known as the "Bush-Dole Act"); and

(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

SEC. 1006. IMPROVED COORDINATION AND MANAGEMENT OF TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Sec-
“(2) The General Counsel shall be com-
pen-sated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code;.”

“(2) Paragraph (5) of section 5315 of title 5, United States Code, is amended by striking ‘‘Secretary of Energy (2)’’ and inserting ‘‘Secretary of Energy (3)’’.

“(3) Paragraph (6) of section 5315 of title 5, United States Code, is amended by striking ‘‘Secretary of Energy (4)’’ and inserting ‘‘Assistant Secretary of Energy (4)’’.

“(4) Paragraph (9) of section 5315 of title 5, United States Code, is amended by striking ‘‘Secretary of Energy (5)’’ and inserting ‘‘Assistant Secretary of Energy (5)’’.

“(6) The College of the Department of Energy Organization Act (42 U.S.C. 7139(b)) is amended by striking paragraph (6) and inserting the following:

“(b) the Secretary, in cooperation with the Freedom

—

“SEC. 1007. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Or-

—

“SEC. 1008. PRIZES FOR ACHIEVEMENT IN GRAND CHALLENGES OF SCIENCE AND TECHNOLOGY.

(a) AUTHORITY.—The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, develop-

—

“(h) NONNUCLEAR ENERGY RESEARCH AND DE-

—
(b) by striking "(a) There may be appropriated to the Administrator and inserting "There may be appropriated to the Secretary"; and
(c) by striking subsections (b) and (c).

SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) DEFINITIONS.—

(1) ENERGY TECHNOLOGY INDUSTRY.—The term "energy technology industry" includes—

(A) a renewable energy industry; 

(B) a company that develops or commercializes a device to increase energy efficiency; 

(C) the oil and gas industry; 

(D) the nuclear power industry; 

(E) the coal industry; 

(F) the electric utility industry; and 

(G) any other industrial sector, as the Secretary determines to be appropriate.

(2) SKILLED TECHNICAL PERSONNEL.—The term "skilled technical personnel" means—

(A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and 

(B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) WORKFORCE.—

(1) MONITORING.—The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

(A) skilled technical personnel that support energy technology industries; and 

(B) electric power and transmission engineers.

(2) REPORT ON TRENDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on current trends in the workforce of—

(a) skilled technical personnel that support energy technology industries; and 

(b) electric power and transmission engineers.

(3) REPORT ON THE SHORTAGE.—As soon as practicable after the date on which the Secretary identifies or predicts a significant national shortage of skilled technical personnel in 1 or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—In consultation with the Secretary of Labor, the Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to educational institutions, including distance learning for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 1102. EDUCATION PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) SCIENCE EDUCATION ENHANCEMENT FUND.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

"(c) SCIENCE EDUCATION ENHANCEMENT FUND.—The Secretary shall use not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for fiscal year 2006 and each fiscal year thereafter to carry out activities authorized by this Act, including—

(i) training and retaining science teachers in science and mathematics education; 

(ii) supporting and enhancing education programs in science and mathematics that focus on increasing student participation or achievement in science and mathematics; and 

(iii) providing grants to educational institutions to establish innovative teacher development programs to enable science and mathematics teachers to work in grades from kindergarten through grade 12 at Department research and development facilities.

(b) REQUIREMENTS.—The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, maintenance, or decommissioning of nuclear electric generation, transmission, or distribution systems, including requirements relating to—

(A) competency; 

(B) certification; and 

(C) assessment, including—

(i) initial and continuous evaluation of worker competency; 

(ii) recertification procedures; and 

(iii) methods for examining or testing the qualification of an individual who performs a critical task; and 

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, inspection, and decommissioning of nonnuclear electric generation, transmission, and distribution facilities, such as

SEC. 1103. TRAINING GUIDELINES FOR NONNUCLEAR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall promulgate guidelines to ensure the availability of qualified individuals to support the reliability and safety of the nonnuclear electric systems and installations at Department research and development facilities.
SEC. 1106. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATIONAL CENTER.

(a) Establishment.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section as the ‘‘Center’’), to address the need for training and educating certified operators and technicians for the electric power industry.

(b) Location of Center.—The Secretary shall create the establishment of the Center at an institution of higher education that has—

(1) expertise in providing degree programs in electric power generation, transmission, and distribution technologies;

(2) expertise in providing onsite and Internet-based training; and

(3) demonstrated responsiveness to workforce and training requirements in the electric power industry.

(c) Training and Continuing Education.—

(1) In general.—The Center shall provide training and continuing education in electric power generation, transmission, and distribution technologies and operations.

(2) Location.—The Center shall carry out training and education activities under paragraph (1) at the Center; and

(b) through Internet-based information technologies that allow learning at remote sites.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the ‘‘Electricity Modernization Act of 2005’’.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) Definitions.—For purposes of this section—

(1) the term ‘‘bulk-power system’’ means—

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

(2) ‘‘electric plant’’ means a device or installation from which electric energy is supplied to a consumer in a form suitable for use in lighting, heating, or motor action, or for the transmission of electric energy to another point; and

(3) ‘‘transmission organization’’ means a regional entity, or a group of regional entities, that provide for an adequate level of reliability of bulk-power system components.

(b) Jurisdiction and applicability.

(1) In general.—A transmission organization finally approved by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including those that are not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section, shall accede to the transmission organization.

(2) Repeal.—The term ‘‘cybersecurity incident’’ means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

(c) Jurisdiction and applicability.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including those not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section, shall accede to the transmission organization.

(d) Certification.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as an Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

(1) has the ability to develop and enforce, subject to subsection (e), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

(2) has established rules that—

(A) assure its independence of the users and owners of the bulk-power system, while assuring fair stakeholder representation in the process of its decisions and decision-making in any ERO committee or subordinate organizational structure;

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

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions); and

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

(2) In general.—A regional entity or transmission organization—

(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico;

(F) have the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a

Governing body; and

the activities carried out under this section, the Secretary shall submit to Congress a report describing the activities carried out under this section.’’.
reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection that does not defer such standard to the ERO to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

(3) Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(4) Prior to the implementation of the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a modified reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate in this section.

(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any State law, rule, order, rate, schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, rate, schedule or agreement approved, or ordered by the Commission until—

(A) finds a conflict exists between a reliability standard and any such provision; or

(B) the Commission orders a change to such provision pursuant to section 296 of this part; and

(C) the change ordered becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

(e) Enforcement.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing,

(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the date of notice by the Commission of the existence of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing may consider the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty, shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement a penalty imposed under paragraph (1) before hearing a dispute raised by the ERO.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty on a user 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 engaged in behavior that results in any act, practice or policy that constitutes or would constitute a violation of a reliability standard.

(4) The Commission regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) of this subsection—

(A) the regional entity is governed by—

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board.

(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis for a reliability standard is based on an efficient administration of the bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO’s authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

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

(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

(f) Changes in Electric Reliability Organization Rulemaking. —The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose, that the ERO determines upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change 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, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may defer to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

(k) Alaska and Hawaii.—The provisions of this section do not apply to Alaska or Hawaii.

(1) Status of ERO. —The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of the Federal Power Act, any department, agencies, or instrumentalities of the United States Government.

(2) Access Approvals by Federal Agencies. —Federal agencies responsible for approving access to electric transmission or distribution facilities located on lands within the United States shall, in accordance with applicable law, expedite any Federal agency approvals that are necessary to allow the owners or operators of such facilities to comply with any reliability standard, approved by the Commission under section 215 of the Federal Power Act that pertains to vegetation management, electric service restoration, or resolution of situations that imminently endanger the reliability or safety of the facilities.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES. (a) In General.—Section 212(b) of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"(2) 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 such State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action is not inconsistent with any reliability standard within the State of New York.

(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 such State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action is not inconsistent with any reliability standard within the State of New York.

(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with any reliability standard within the State of New York.

(g) Regional Advisory Bodies. —The President is urged to negotiate interagency agreements that establish a regional advisory body on the petition of at least 2 States within a region that have more than 1⁄2 of their electric load served within the region.

(h) Coordination with Canada and Mexico. —The President is urged to negotiate interagency agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effective enforcement of the ERO in the United States and Canada.

SEC. 1218. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES. (a) Designation of National Interest Electric Transmission Corridors.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy (referred to in this section as the "Secretary"), in consultation with affected.
States, shall conduct a study of electric transmission congestion.

“(2) After considering alternatives and electric transmission congestion, should be conducted in consultation with any State that is responsible for conducting any separate permitting and environmental reviews of the facility.

“(4) The Commission shall issue rules specifying—

“(A) the form of the application;

“(B) the information to be contained in the application;

“(C) the manner of service of notice of the permit application on interested persons.

“(d) COMMENCEMENT OF STUDY.—Before the Commission under subsection (b), the Commission will commence the study, which may designate any geographic area experiencing electric energy transmission congestion, or congestion that adversely affects consumers as a national interest electric transmission corridor.

“(e) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.

“(f) Report.—The Secretary shall—

“(1) submit the report to Congress, the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the Federal Communications Commission;

“(2) make such determinations and, as appropriate, establish such policies regarding the share of Federal energy policy, and energy independence of the United States; and

“(g) The Secretary shall, in consultation with the affected agencies, shall have authority to approve the siting of the facility.

“(h) The Commission shall issue rules specifying—

“(1) the form of the application;

“(2) the information to be contained in the application;

“(3) the manner of service of notice of the permit application on interested persons.

“(i) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.

“(j) The Secretary shall—

“(1) submit the report to Congress, the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the Federal Communications Commission;

“(2) make such determinations and, as appropriate, establish such policies regarding the share of Federal energy policy, and energy independence of the United States; and

“(k) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.

“(l) The Secretary shall—

“(1) submit the report to Congress, the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the Federal Communications Commission;

“(2) make such determinations and, as appropriate, establish such policies regarding the share of Federal energy policy, and energy independence of the United States; and

“(m) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.

“(n) The Secretary shall—

“(1) submit the report to Congress, the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the Federal Communications Commission;

“(2) make such determinations and, as appropriate, establish such policies regarding the share of Federal energy policy, and energy independence of the United States; and

“(o) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.

“(p) The Secretary shall—

“(1) submit the report to Congress, the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the Federal Communications Commission;

“(2) make such determinations and, as appropriate, establish such policies regarding the share of Federal energy policy, and energy independence of the United States; and

“(q) The Secretary shall provide an opportunity for comment from affected Federal agencies and Indian tribes, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the designation.
shall issue any regulations necessary to implement this subsection.

“(B)(i) Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all other Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electric transmission facilities.

“(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding established under this subsection.

“(C) The heads of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient staff and resources, as appropriate, to ensure, full implementation of the regulations and memorandum required under this paragraph.

“(B) Each Federal land use authorization for an electricity transmission facility shall be issued—

“(i) for a duration, as determined by the Secretary, consistent with the anticipated use of the facility; and

“(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

“(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be extended for renewal if the Secretary fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

“(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

“(A) the Federal Energy Regulatory Commission;

“(B) electric reliability organizations (including related regional entities) approved by the Commission; and

“(C) Transmission Organizations approved by the Commission.

“(1) INTERSTATE COMPACTS.—(1) The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

“(A) facilitate siting of future electric energy transmission facilities within those States; and

“(B) execute electric energy transmission siting responsibilities of those States.

“(2) The Secretary may provide technical assistance to regional transmission siting agencies established pursuant to this subsection.

“(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

“(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in agreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

“(5) The relationship to other laws.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) Subsection (b)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

“(6) This section shall not apply within the area referred to in section 212(k)(2)(A)."
(1) enhanced power device monitoring;  
(2) direct system state sensors;  
(3) fiber optic technologies;  
(4) power electronics and related software (including real time monitoring and analytical software);  
(5) mobile transmitters and mobile substations;  
(6) any other technologies the Commission considers appropriate.  

(b) AUTHORITY.—In carrying out the Federal Power Act (16 U.S.C. 796 et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

SEC. 1223. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.  

(a) PROGRAM.—The Secretary is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made by the Secretary in consultation with the Secretary of an incentive payment establishment applying as either—  

(1) a qualifying advanced power system technology facility; or  
(2) a qualifying security and assured power facility.  

(b) INCENTIVES.—Subject to availability of funds, payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section—  

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term “qualifying advanced power system technology facility” means a facility that is an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.  

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term “qualifying security and assured power facility” means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2010.  

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.  
Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211(s)(4) the following:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.  

(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITIES.—In 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 an entity described in section 201(f).  

(b) TRANSMISSION OPERATING SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services to others that are the same as, or similar to, the services provided by a public utility.  

(1) such rule or order may not require the unregulated transmitting utility charges itself; and  

(2) such rule or order may not prescribe the rates relating to the transmission service to itself and that are not unduly discriminatory or preferential.  

(c) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—  

(1) sells or leases for power not exceeding 4,000,000 megawatt-hours per year;  

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

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

(d) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (b) shall not apply to facilities used in local distribution.  

(e) EXISTING CONTRACTS.—If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 215, finds on the preponderance of the evidence that any exemption granted pursuant to subsection (c) unreasonably impairs the continued reliability of an interconnected transmission system, the Commission may require the exemption granted to the transmitting utility.  

(f) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rule 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.  

(g) REMAND.—In exercising authority under subsection (b)(1), the Commission may remand the transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b).  

(h) OTHER REQUESTS.—The provision of transmission services under subsection (b) does not preclude a request for transmission services under section 211.  

(i) LIMITATION.—The Commission may not require transmission services, except for transmission services to itself or other transmission facilities, subject to section 211, which are used by the Federal utility to transmit energy to or from transmission facilities operated by a Federal power marketing agency.  

(j) TRANSFER OF CONTROL OF TRANSMISSION FACILITIES.—Nothing in this section authorizes the Secretary or the Board of Directors of the Tennessee Valley Authority to transfer or withdraw from the Transmission Organization that is designated to provide nondiscriminatory transmission access.

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN TRANSMISSION ORGANIZATIONS.  

(a) DEFINITIONS.—In this section:  

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—  

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate a Federal regulatory authority as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and  

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.  

(2) FEDERAL POWER MARKETING AGENCY.—The term "Federal power marketing agency" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).  

(3) FEDERAL UTILITY.—The term "Federal utility" means—  

(A) a Federal power marketing agency; or  

(B) the Tennessee Valley Authority.  

(4) TRANSMISSION ORGANIZATION.—The term "Transmission Organization" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).  

(5) TRANSMISSION SYSTEM.—The term "transmission system" means an electric transmission system provided, owned, or operated for the transmission of electric energy by the United States and operated by a Federal utility.  

(b) TRANSFER.—The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement permitting control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) CONTENTS.—The contract, agreement, or arrangement shall include—  

(1) performance standards for operation and use of the transmission system;  

(2) provisions for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, including the overriding of the requirements of any other law relating to arbitration; and  

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.  

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transfer of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—  

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or  

(2) the power sales activities of the Federal utility.  

(e) EXISTING STATUTORY AND OTHER OBLIGATIONS.—  

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility is transferred or withdrawn from transmission Organization that is designated to provide nondiscriminatory transmission access.

(2) OTHER OBLIGATIONS.—This subsection does not—  

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on the date of enactment of this Act, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or  

(B) authorize abrogation of any contract or transmission obligation.  

(3) CONFORMING AMENDMENT.—Section 311 of the Energy and Water Development Appropriations Act, 2001 (16 U.S.C. 824n) is repealed.

SEC. 1233. NATIVE LOAD SERVICE OBLIGATION.  

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 211T. NATIVE LOAD SERVICE OBLIGATION.  

(a) DEFINITIONS.—In this section:  

(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperatives that, directly or through one or more additional State utilities or electric cooperatives, provides electric service to end-users.
The term ‘load-serving entity’ means a distribution utility or an electric utility that has a firm wholesale power supply contract or a contract for the purchase of wholesale electric energy, or is a distributing company that is authorized to do business within the area referred to in section 212(k)(2)(A). The Secretary, in coordination with the Commission, may exercise authority under this Act to require the equipment and facilities adequate to meet the service obligations of such entity, as determined by the Secretary and the Commission.

The term ‘load-serving entity’ means a generation or transmission service provider that is authorized to do business within the area referred to in section 212(k)(2)(A) and that is authorized to do business within the area referred to in section 212(k)(2)(B).

The term ‘load-serving entity’ means a generation or transmission service provider that is authorized to do business within the area referred to in section 212(k)(2)(B).

The term ‘load-serving entity’ means a generation or transmission service provider that is authorized to do business within the area referred to in section 212(k)(2)(B).

The term ‘load-serving entity’ means a generation or transmission service provider that is authorized to do business within the area referred to in section 212(k)(2)(B).
SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANSMISSION UPGRADES.

The Commission shall approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant has or enters into a contract with a Transmission Organization, if the plan results in rates that:

(1) are just and reasonable;
(2) are not unduly discriminatory or preference; and
(3) are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 2624, 2625).

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

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

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of technologies, including renewable technologies.

(13) FISSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Subsection (b)(2) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(3)(A) Not later than 18 months after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall complete the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

(B) Not later than 3 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall complete the determination referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d)."

(2) FAILURE TO COMPLY.—Section 122(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13)."

(c) PRIOR STATE ACTIONS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"Prior to State actions.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility that:

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State has or may in the future implement a comparable standard for such utility; or

(3) the State legislature has not implemented a comparable standard for such utility."

(d) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of such standard is deemed to be a reference to the date of enactment of such paragraphs (11) through (13)."

SEC. 1252. SMART METERING.

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

"(14) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation into the use of time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the utility's electric consumer. Each time period contained during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their electric consumption to a lower cost period or reducing their consumption overall;

(‘‘(ii)’’ critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level when consuming additional discounts for reducing peak period energy consumption;

(‘‘(iii)’’ real-time pricing whereby electricity prices are set for a specific time period on an advance or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as an hourly; and

(‘‘(iv)’’ credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-of-use rate with a time-based meter and communications devices that may be offered under the schedule referred to in subparagraph (A) include, among others:

(‘‘(ii)’’ time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the utility's electric consumer. Each time period contained during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their electric consumption to a lower cost period or reducing their consumption overall;

(‘‘(ii)’’ critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level when consuming additional discounts for reducing peak period energy consumption;

(‘‘(iii)’’ real-time pricing whereby electricity prices are set for a specific time period on an advance or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as an hourly; and

(‘‘(iv)’’ credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

("(D) For purposes of implementing this paragraph, any time-based metering and communications device shall be deemed to be a reference 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 such paragraph."

(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications service and device as a retail electric consumer of the electric utility.

(F) Notwithstanding subsections (b) and (c) of section 122, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(a) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C)."

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase "the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13)."

(2) By inserting in subsection (b) after the phrase "are just and reasonable;" and

(3) By inserting, after the phrase "are not unduly discriminatory or preference; and" and

(4) By inserting, after the phrase "are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 2624, 2625)."
for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2641(a)) is amended by striking "and" at the end of subparagraph (D) of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) the technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs;"

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the benefits of advanced metering and communications technologies, and recommends the appropriate level of Federal support for such technologies, and for the adoption of demand response programs.

(e) FEDERAL RESOURCES AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including the adequacy of transmission capacity to serve load and resource needs;

(C) developing plans and programs to use demand response to respond to peak demand or energy price conditions; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(f) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and recommends—

(A) the state or regional penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate schedules; and

(C) the annual resource contribution of demand resources.

(g) THE POTENTIAL FOR DEMAND RESPONSE AS A QUANTIFIABLE, RELIABLE RESOURCE FOR REGIONAL PLANNING PURPOSES; (E) STEPS TAKEN TO ENSURE THAT, IN REGIONAL TRANSMISSION PLANNING AND OPERATIONS, DEMAND RESPONSE PROGRAMS ARE CONSIDERED EQUITABLE TREATMENT AS A QUANTIFIABLE, RELIABLE RESOURCE RELATIVE TO THE RESOURCE OBLIGATIONS OF ANY LOAD-SERVING ENTITY, TRANSMISSION PROVIDER, OR TRANSMITTING PARTY; AND

(F) REGULATORY BARRIERS TO IMPROVED CUSTOMER PARTICIPATION IN DEMAND RESPONSE, PEAK REDUCTION AND OTHER TIME-VARYING PROGRAMS; (J) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and the implementation of such systems so that participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be fully recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2632(b)) is amended by adding at the end thereof:

"(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).

(B) Not later than 2 years after the date of the enactment of this subsection, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d)."

(h) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) I N GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2632) is amended by adding at the end thereof:

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following as a new subsection:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14)."

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility or (C) of paragraph (1) have been met.

(2) URBAN REVITALIZATION.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility meets the criteria described in chapter 16 of subchapter II of this title.

(3) LOCAL PRIORITY.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(b) COLLECTIVE BIDDING.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(c) LOCAL PRIORITY.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(d) INDEEMPTIVE ORDERS.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(e) COLLECTIVE BIDDING.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(f) LOCAL PRIORITY.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(g) COLLECTIVE BIDDING.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(h) LOCAL PRIORITY.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(i) COLLECTIVE BIDDING.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.

(j) LOCAL PRIORITY.—The Commission may permit the sale of electric energy produced from a qualifying cogeneration facility or a qualifying small power production facility on a specially designated site, if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has non-discriminatory access to any electric utility or existing electric utility operated by the State, or any electric utility owned by the Federal Government.
upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including to potential affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase energy from a qualifying cogeneration facility or a qualifying small power production facility under this section are no longer met.

(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligate itself to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

(A) competing retail suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility, and

(B) the electric utility is not required by State law to sell electric energy in its service territory.

(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the Commission, to purchase electric energy from a qualifying cogeneration facility or qualifying small power production facility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy to, or qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

(8) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1) Not later than 180 days after the date of enactment of this section, the Commission shall issue, in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

(ii) the electrical, thermal, and chemical output of a new qualifying cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account the need to provide efficiently affected and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying cogeneration facility to its host facility;

(iii) continuing progress in the development of efficient electric energy generation technologies;

(iv) (B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations issued pursuant to paragraph (1). (2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

(B) had filed with the Commission a notice of self-certification for application or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).

(2) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) qualifying small power production facility means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;"

(2) QUALIFYING COGENERATION FACILITY.—Section 3(16)(B) of the Federal Power Act (16 U.S.C. 796(16)(B)) is amended to read as follows:

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

1254. INTERCONNECTION.

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

"(15) INTERCONNECTION.—Each electric utility shall maintain, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'interconnection service' means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronic Engineers: IEEE Standard 1347 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for facilities, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be non-discriminatory and not unduly discriminatory or preferential.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b) is amended by adding at the end thereof the following:

"(5)(A) Not later than one year after the enactment of this section, the State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 111(d).

(B) Not later than two years after the date of the enactment of the this section, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (15) of section 111(d).

(2) FAILURE TO COMPLY.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c) is amended by adding at the end thereof the following:

"In the case of the standard established by paragraph (15), the reference contained in this subsection to the date of enactment of paragraph (15)."

3 PRIOR STATE ACTIONS.

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end thereof the following:

"(F) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 111 if—

(i) the State has implemented for such utility the standard concerned (or a comparable standard);

(ii) the State has implemented for such utility the standard concerned (or a comparable standard) for such utility; or

(iii) the State has a proceeding to consider implementation of the standard concerned (or a comparable standard).

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding at the end thereof the following:

"In the case of each standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of the this paragraph shall be deemed to be a reference to the date of enactment of paragraph (15).

Subtitle F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2005."

SEC. 1262. DEFINITIONS.

For purposes of this subtitle—

(A) COMPANY.—The term "company" means any company employed which owns, controls, or holds, with power to vote, directly or indirectly, by such company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(B) ASSOCIATE COMPANY.—The term "associate company" of any company means any company in the same holding company system with such company.

(C) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(D) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any other organization or person, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(E) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(F) SUBSIDIARY.—The term "subsidiary" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(G) HOLDING COMPANY.—The term "holding company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(H) WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The term "wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 5a of the Public Utility Holding Company Act of 1935 (5 U.S.C. 792a–5a, 792–5b), as those sections existed on the day before the effective date of this subtitle.

SEC. 1264. PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

"The term "gas utility company" means any company that owns or operates facilities used for distribution of natural or manufactured gas for heat, light, or power.

(B) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10
percent or more of the outstanding voting securities of a public-utility company; or (b) any person, determined by the Commission, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more other persons) such a controlling influence over the policies of such company, or (c) an affiliate of such a controlling person.

(ii) includes each holding company and each such affiliate.

(a) Commission Authority Unaffected.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public-utility company affiliate, or natural gas company may recover in rates any costs of goods or services acquired for an activity performed by an associate company or any costs of goods or services acquired by such public-utility company from an associate company.

(b) Recovery of Costs.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public-utility company affiliate, or natural gas company may recover in rates any costs of goods or services acquired by such public-utility company from an associate company.

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

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) In General.—In addition to books and records of each holding company and each such affiliate, the Commission or a State commission shall have the power to require any public-utility company or any holding company having control of such company to produce for inspection books, accounts, memoranda, and other records of any entity referred to in paragraph (1), (2), or (3) of subsection (b).

(b) Scope of Authority.—The Commission or a State commission may require any public-utility company or any holding company to produce for inspection books, accounts, memoranda, and other records of any person who, at the time of the request, holds with the power to vote public utility or natural gas company securities in the aggregate in a holding company system, or any affiliate thereof, so as to make it necessary for the protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this section.

(c) Limitation.—The Commission or a State commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 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) electric utilities.

(d) Court Jurisdiction.—Any person affected by an order of the Commission or a State commission under this section may obtain judicial review of such order in the manner provided by section 7 of the Administrative Procedure Act (5 U.S.C. 702).

(e) Enforcement.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1266. AFFILIATE TRANSACTIONS.

(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 issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) Recovery of Costs.—Nothing in this subtitle shall preclude the Commission of a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public-utility company affiliate, or natural gas company may recover in rates any costs of activities performed by an associate company or any costs of goods or services acquired by such public-utility company from an associate company.

(c) Applicability.—Except as otherwise specifically provided in the Commission or a State commission order, nothing in this subtitle shall preclude the application of section 1265 (relating to Federal access to books and records) to the records of a public-utility company or any holding company having control of such company.

(d) Court Jurisdiction.—Any person affected by an order of the Commission or a State commission under this section may obtain judicial review of such order in the manner provided by section 7 of the Administrative Procedure Act (5 U.S.C. 702).

(e) Enforcement.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1267. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1270. 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 en-force the provisions of this subtitle.

SEC. 1271. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or other provisions of the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or trans-actions that are currently authorized and regulated in any manner necessary to carry out the purposes of this subtitle, so long as the provisions of Federal law necessary to carry out this sub-title are not affected.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

(c) TAX TREATMENT.—Tax treatment under section 981 of the Internal Revenue Code of 1986 as a result of transactions ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) shall not be affected in any manner due to the repeal of that Act and the enactment of the Public Utility Holding Company Act of 2005.

SEC. 1272. IMPLEMENTATION.

Not later than 4 months after the date of en-actment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1208 relating to State access to books and records); and

(2) submit to Congress detailed recommenda-tions on technical and conforming amendments to Federal law necessary to carry out this sub-title and the amendments made by this subtitle.

SEC. 1273. TRANSFER OF RESOURCES.

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

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relat-ing to implementation), this subtitle shall take effect 6 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct in place for that entity, control facilities for transmission of electricity in interstate commerce or transportation of nat-ural gas in interstate commerce prior to the eff-ective date of this subtitle, any action by a public-utility company or utility holding com-pany to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1275. SERVICE ALLOCATION.

(a) DEFINITION OF PUBLIC UTILITY.—In this section, the term ‘public utility’ has the mean-ing given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(b) FERC REVIEW.—Nothing in this subtitle shall affect the authority of the Commission to regulate the sale of gas or electric energy at wholesale in interstate commerce and transmission service to the Commission.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this sub-title.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 218 of the Federal Power Act (16 U.S.C. 825q) is re-pealed.

(b) DEFINITIONS.—(1) The Public Utility Holding Company Act (16 U.S.C. 824e(g)(5)) is amended by striking ‘‘1935’’ and inserting ‘‘2005’’.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ‘‘1935’’ and inserting ‘‘2005’’.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. ELECTRICITY MARKET TRANS-PARENCY.

Part II of the Federal Power Act is amended by adding at the end the following:

"SEC. 220. ELECTRICITY MARKET TRANSPARENCY RULES.

(a)(1) The Commission is directed to facili-tate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public in-terest, the integrity of those markets, fair com- petition, and the protection of consumers.

(2) The Commission may prescribe such rules as the Commission determines necessary and ap-propriate to carry out the purpose of this sec-tion. The rules shall provide for the dissemina-tion, on a timely basis, of information about the availability and prices of wholesale electric en-ergy and transmission service to the Commiss-ion, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

(b)(1) The Commission—

(1) shall require, subject to the disclosure rules in subsection (b), the providers of wholesale electric energy at wholesale or the availability of transmission service to receive and make public the information, maximum extent possible. The Commission may conscience of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in vio-lation of section 222.

(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the sale of elec-tric energy at wholesale or transmission service subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract being compiled by the Federal agency."."

SEC. 1282. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) In General.—No entity (including an entity described in section 201(f)), directly or indirectly, to use or em-ploy, in connection with the purchase or sale of electric energy or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.

(b) No PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create a pri-vate right of action.".

SEC. 1284. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) by inserting ‘electric utility’, after ‘person’; and

(2) by inserting ‘, transmitting utility’, after ‘electric utility’.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended—

(1) by inserting ‘, electric utility, permitting the applicability of the Commodity Futures Trading Commission relating to infor-mation sharing, which shall include, among other things, provisions ensuring that informa-tion requests to markets within the respective jurisdiction of each agency are properly coordi-nated to minimize duplicative information re-quest, and provisions regarding the treatment of proprietary trading information.

(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(d) The Commission shall not require entities who have a de minimis market presence to com-ply with the reporting requirements of this sec-tion.

"(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is subject to the jurisdiction of the proposed penalty under section 316A.

(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the sale of elec-tric energy at wholesale or transmission service subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in vio-lation of section 222.

"(f) This section shall not apply to a trans-action in which the purchase or sale of wholesale electric energy or transmission services within the area described in section 213(c)."

SEC. 1285. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFOR-MATION.

‘No entity including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1286. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULA-TION.

(a) In General.—No entity, including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1287. CONFORMING AMENDMENTS TO THE COMMODITY EXCHANGE ACT.

"SEC. 1278. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 221. PROHIBITION ON FILING FALSE INFOR-MATION.

‘No entity, including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1288. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULA-TION.

(a) In General.—No entity, including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1289. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULA-TION.

(a) In General.—No entity, including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1290. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULA-TION.

(a) In General.—No entity, including an entity described in section 201(f)), shall willfully and knowingly re-port any information relating to the price of electric energy at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.
the transmission of electric energy in interstate commerce.”
(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 2813) is amended by adding “electric utility” after “person.”
(d) CLARIFICATION.—Section 316 of the Federal Power Act (16 U.S.C. 2826a) is amended—
(1) in subsection (a),
(A) by striking “$5,000” and inserting “$1,000,000”;
(B) by striking “two years” and inserting “5 years”;
(C) in subsection (b), by striking “$500” and inserting “$25,000”; and
(D) by striking subsection (c).
(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 2826a–1) is amended—
(1) by striking “section 211, 212, 213, or 214” each place it appears and inserting “part II”;
(2) in subsection (b), by striking “$50,000” and inserting “$1,000,000”.

SEC. 1285. REFUND EFFECTIVE DATE.
Section 206(b) of the Federal Power Act (16 U.S.C. 282a–4) is amended as follows:
(1) by striking “the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period” in the sentence following “(a)” and inserting “the date of the filing of such complaint nor later than 5 months after the filing of such complaint”;
(2) by striking “60 days after” in the third sentence and inserting “of”;
(3) by striking “expiration of such 60-day period” in the third sentence and inserting “publication date”;
(4) by striking the fifth sentence and inserting the following: “If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.”;
(5) by adding at the end the following:
“(e)(1) In this subsection—
(A) The term ‘short-term sale’ means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period in excess of 6 months (excluding monthly contracts subject to automatic renewal).
(B) The term ‘applicable Commission rule’ means a Commission rule applicable to sales at wholesale that the Commission determines after notice and comment should be applicable to entities subject to this subsection.

(C) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-authorized tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

(D) This section shall not apply to—
(1) an entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or
(2) an electric cooperative.

(E)(1) The Commission shall have refund authority under this subsection (2) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

(F) A failure to sell or to compensate for the short-term sale made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period of time for the sale by the Bonneville Power Administration.

(G) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.

SEC. 1287. AUTHORITY OF COURT TO PROHIBIT TRADE PRACTICES.
(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers, including information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

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

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—The Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:
(1) STATE REGULATORY AUTHORITY.—The term “State regulatory authority” has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms “electric consumer” and “electric utility” have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

SEC. 1288. AUTHORITY OF COURT TO PROHIBIT INDIVIDUALS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.
Section 314 of the Federal Power Act (16 U.S.C. 2825m) is amended by adding at the end the following:
(3) an order of the Commission authorizing it to do so.

SEC. 1289. AUTHORITY OF COURT TO PROHIBIT INDIVIDUALS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.
(a) IN GENERAL.—Section 203(a) of the Federal Power Act (16 U.S.C. 2823(a)) is amended to read as follows:
(1) A public utility shall, without first having secured an order of the Commission authorizing it to do so—
(2) sell, lease, or otherwise dispose of the whole or any part thereof of the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;
(3) merge or consolidate, directly or indirectly, with such facilities or any part thereof with those of any other person, by any means whatsoever;
(4) (A) acquire or take any security with a value in excess of $10,000,000 of any other public utility;

(B) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

(D) purchase, lease, or otherwise acquire an existing generation facility for the generation of wholesale electricity that the Commission has—
(1) found to have manipulated the electricity market resulting in unjust and unreasonable rates;

(2) revoked the seller’s authority to sell any electricity at market-based rates.
(b) RELIEF.—Notwithstanding section 222 of the Federal Power Act (as added by section 1262), any provision of title 11, United States Code, or any other provision of law, in the case of a sale of property described in subsection (a), the Commission shall have exclusive jurisdiction under the Federal Power Act (16 U.S.C. 791a et seq.) to determine whether a requirement to make payments for power not purchased or tendered by the seller, or any successor in interest of the seller, is not permitted under a rate schedule (or contract under such a schedule) or is otherwise unjust or unreasonable or contrary to the public interest.

(c) APPLICABILITY.—This section applies to any person or entity described in subsection (a) in which there is not a final, nonappealable order by the Commission or any other jurisdiction determining the respective rights of the seller.

Subtitle II—Definitions

SEC. 1291. DEFINITIONS.

(a) COMMISSION.—In this title, the term ‘‘Commission’’ means the Federal Energy Regulatory Commission.

(b) AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 792) is amended—

(1) by striking paragraphs (22) and (23) and inserting the following:

’’(22) ELECTRIC UTILITY.—(A) The term ‘‘electric utility’’ means a regional transmission organization or an independent system operator.

(B) The term ‘‘electric utility’’ includes the Tennessee Valley Authority and each Federal power marketing administration.

(23) TRANSMISSION UTILITY.—The term ‘‘transmission utility’’ means an entity described in section 201(f) that sells electric energy.

(24) ELECTRIC UTILITY.—The term ‘‘electric utility’’ includes a Regional Transmission Organization or an Independent System Operator.

(25) TRANSMISSION ORGANIZATION.—The term ‘‘transmission organization’’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(c) AMENDMENTS.—Section 201(f) of the Federal Power Act (16 U.S.C. 824j) is amended by striking ‘‘qualified hydropower production’’ and inserting ‘‘qualified hydropower production, generated or planned’’.

(d) APPROPRIATIONS.—Section 203 of the Federal Power Act (16 U.S.C. 823) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking ‘‘The’’ and inserting ‘‘Notwithstanding section 203(f), the’’;

(ii) by striking ‘‘section 203(a)(2), 203(e), 210, 211, 211A, 215, 216, 217, 218, 219, 220, 221, and 222’’; and

(B) in the second sentence—

(i) by inserting ‘‘or rule’’ after ‘‘any order’’; and

(ii) by striking ‘‘210 or 211’’ and inserting ‘‘203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222’’.

(2) in subsection (c)—

(A) by striking ‘‘(2)’’;

(B) by striking ‘‘(A)’’ and inserting ‘‘(1)’’; and

(C) by striking ‘‘(2)’’ and inserting ‘‘(2)’’;

(3) in the second sentence of subsection (d), by striking ‘‘electric utility’’ the second place it appears and inserting ‘‘transmission utility’’.

(d) AMENDMENTS.—Section 215(c) of the Federal Power Act (16 U.S.C. 825c) is amended by striking ‘‘subsection’’ and inserting ‘‘section’’.

Subtitle J—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

‘’SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

(a) IN GENERAL.—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

(c) POWERS.—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ‘‘security constrained economic dispatch’’ and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned as well as the recommendations to the Commission regarding such issues.

(d) REPORT TO THE CONGRESS.—Within one year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.

TITLE XIII—ENERGY POLICY TAX INCENTIVES

SEC. 1301. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

(a) 2-YEAR EXTENSION FOR CERTAIN FACILITIES.—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking ‘‘January 1, 2006’’ each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting ‘‘January 1, 2008’’; and

(2) by striking ‘‘January 1, 2006’’ in paragraph (4) and inserting ‘‘January 1, 2008’’.

(b) INCREASE IN CREDIT PERIOD.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting ‘‘or clause (iii)’’ after ‘‘clause (ii)’’ in clause (i), and

(2) at the end adding the following:

‘’(iii) TERMINATION.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this paragraph.’’.

(c) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following:

‘’(8) QUALIFIED HYDROPOWER PRODUCTION.—

‘’(A) IN GENERAL.—The term ‘‘qualified hydropower production’’ means—

(i) in the case of any hydroelectric dam which was in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—

‘’(i) IN GENERAL.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow and water elevation conditions as at the time of determination of the average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

(ii) OPERATIONAL CHANGES DISREGARDED.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

(i) the facility is licensed by the Federal Energy Regulatory Commission; and

(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

(iii) the facility does not produce hydroelectric power for sale to customers; and

(iv) the facility was in service on or before the date of the enactment of this paragraph.

TITLES I AND II—GENERAL PROVISIONS

SEC. 1304. CONFORMING AMENDMENTS.

(a) Amendments.—Section 201 of the Federal Power Act (16 U.S.C. 824) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking ‘‘The’’ and inserting ‘‘Notwithstanding section 203(f), the’’;

(ii) by striking ‘‘section 203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222’’; and

(B) in the second sentence—

(i) by inserting ‘‘or rule’’ after ‘‘any order’’; and

(ii) by striking ‘‘210 or 211’’ and inserting ‘‘203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222’’.

(b) Amended Title.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.
“(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or any abandonment or adjustment of a bypass channel, or the impoundment or any withdrawal of any additional water from the natural stream channel.”

(4) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(5) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(6) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(7) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(8) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(9) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(10) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(11) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(12) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(13) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(14) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(15) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(16) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(17) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(18) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(19) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(20) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(21) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(22) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(23) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(24) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(25) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(26) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(27) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(28) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(29) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(30) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(31) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(32) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(33) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(34) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

(35) during any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.
any credit allowance date for a clean renewable energy bond is 25 percent of the annual credit determined with respect to such bond.

(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean renewable energy bond is the product of—

(A) the credit rate determined by the Secretary under paragraph (3) for the first day on which there is a binding, written contract for the sale or exchange of the bond; and

(B) the outstanding face amount of the bond.

(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which—

(i) is based on an estimate of the entire interest which the qualified issuer will be entitled to receive in respect of the bond during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to each such credit allowance date shall be the portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when a bond is issued for a term of 10 or more years.

(ii) is determined without regard to subsection (c).

(iii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(iv) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(v) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(vi) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(vii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(viii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(ix) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(x) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xi) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xiii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xiv) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xv) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xvi) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xvii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xviii) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xix) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(xx) is subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term ‘credit allowance date’ means—

(A) March 15,

(B) June 15,

(C) September 15, and

(D) December 15.

Such date includes the last day on which the bond is outstanding.

(5) SPECIAL RULE FOR ISSUE AND REDEMPTION.—If a bond is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be the portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when a bond is issued for a term of 10 or more years.

(6) MATURITY LIMITATIONS.—

(1) DURATION OF TERM.—(A) A bond shall not be treated as a clean renewable energy bond if the maturity of the term determined by the Secretary under paragraph (2) with respect to such bond.

(B) The Secretary shall determine the maximum term permitted under this paragraph for a clean renewable energy bond issued during the following calendar month. Such maximum term shall be the term to which the credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(C) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(D) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(E) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(F) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(G) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(H) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(I) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(J) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(K) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(L) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(M) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(N) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(O) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(P) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(Q) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(R) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(S) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(T) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(U) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(V) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(W) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(X) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(Y) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(Z) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(2) MAXIMUM TERM.—(A) The Secretary shall determine the maximum term permitted under this paragraph for a clean renewable energy bond issued during the following calendar month. Such maximum term shall be the term to which the credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(B) The credit rate shall be subject to any change in the credit rate determined by the Secretary under paragraph (2) with respect to such bond.

(3) DETERMINATION.—For purposes of part (f)(2), the procedures of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall preclude regulations specifying remedial actions that may be taken (including actions to cause such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

(4) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

(1) NATIONAL LIMITATION.—There is a national clean renewable energy bond limitation of $890,000,000.

(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (4)(A) of this section among projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than $850,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are governmental bodies.

(3) CREDIT INCLUDED IN GROSS INCOME.—

(A) Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c) and the amount so included shall be treated as interest income.

(B) SPECIAL RULES RELATING TO EXPENDITURES.—

(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

(A) at least 95 percent of the proceeds of such issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond, and

(B) if the qualified issuer allocates the proceeds of such issue to a qualified borrower, the qualified borrower agrees to spend at least 10 percent of the proceeds of such issue within the 6-month period beginning on the date of issuance of the clean energy bond, the qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project.

(2) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower entered into a written loan commitment for such portion prior to the issue date of such issue.

(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(A) ‘‘BOND’’.—The term ‘‘bond’’ includes any obligation.

(B) ‘‘POOLED FINANCING BOND’’.—The term ‘‘pooled financing bond’’ shall have the meaning given such term by section 149(f)(4)(A).

(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru
entity, rules similar to the rules of section 41(a) shall apply with respect to the credit allowable under subsection (a).

(II) NO BASE ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 139E(i) shall apply.

(II) BONDS HELD BY REGULATED INVESTMENT COMPANY.—For purposes of section 54(a)(2)(C), bonds issued by the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

§5 TREATMENT FOR ESTIMATED TAX PURPOSES.—For purposes of sections 6654 and 6655, rules similar to the rules under section 139E(i) shall apply without regard to subsection (c) to a taxpayer by reason of holding a clean renewable energy bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

§6 RATIONAL PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond for purposes of subsection (a) if the interest described in subparagraph (A) is not allocable to the calendar year that is a part of any issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

§7 REPORTING.—Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 194(e).

§8 TERMINATION.—This section shall not apply to any bond issued after December 31, 2007.

§(b) REPORTING.—Subsection (d) of section 9049 (relating to returns regarding payments of interest) is amended by adding at the end of such section:

“§1310. CREDIT FOR INVESTMENT IN CLEAN ELECTRIC COOPERATIVES.

(a) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM OPEN ACCESS AND NUCLEAR DESIGNATED FACILITIES.

(1)QUALIFYING ELECTRIC TRANSMISSION PROJECTS.—Section 501(c)(12)(C) is amended by striking the last sentence.

(2) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12)(H) is amended by striking clause (2).

§(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

§1305. DISPOSITIONS OF TRANSMISSION PROPERTY AND RESTRUCTURING POLICY.

(1) IN GENERAL.—Subsection (i) of section 45(i)(3) defining qualifying electric transmission transaction is amended by striking "2007" and inserting "2008".

(2) TECHNICAL AMENDMENT RELATED TO SECTION 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Clause (ii) of section 45(i)(4)(A)(B) is amended by striking "the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)" and inserting "December 31, 2007".

§1306. CREDIT FOR PRODUCTION ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"§45J. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) GENERAL RULE.—For purposes of section 38, the advanced nuclear power facility production credit of any taxpayer for any taxable year is equal to the product of—

(1) 1.8 cents, multiplied by

(2) the kilowatt hours of electricity—

(3) produced by the taxpayer at an advanced nuclear power facility during the 8-year period beginning on the date the facility was originally placed in service, and

(4) sold by the taxpayer to an unrelated person during the taxable year.

(b) QUALIFIED INVESTMENT.—In the case of a facility described in subparagraph (A), the qualified investment for such facility is an amount equal to the sum of:

(1) the national megawatt capacity limitation allocated to the facility, bears to

(2) the total megawatt nameplate capacity of such facility.

(3) ALLOCATION OF LIMITATION.—The national megawatt capacity limitation in such manner as the Secretary may prescribe.

(4) 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 to carry out the purposes of this section. Such regulations may provide for a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

(c) CREDIT ALLOWABLE UNDER SUBSECTION (a).—The amount of the credit allowable under subsection (a) for any taxable year with respect to any facility shall not exceed $125,000,000.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

§1307. CREDIT FOR INVESTMENT IN CLEAN COAL FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking "and" and inserting "or", and by adding at the end the following new paragraphs:

"(1) the qualifying advanced coal project credit, and

"(2) the qualifying gasification project credit.";

(b) AMOUNT OF CREDITS.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 46 the following new sections:

"§46A. QUALIFYING ADVANCED COAL PROJECT CREDIT.

(a) IN GENERAL.—For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to—

(1) 20 percent of the qualified investment for such taxable year in the case of projects described in subsection (b), and

(2) 15 percent of the qualified investment for such taxable year in the case of projects described in subsection (d) of section 28(b).

(b) QUALIFYING ADVANCED COAL PROJECT CREDIT.—In the case of a facility described in subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service in the taxable year which is part of a qualifying advanced coal project—
property

part of such project.

gas separation equipment, and

such project and is necessary for the gasification of coal.

shall apply for purposes of this section.

termination as to whether an applicant has met the
criteria set forth in subsection (e)(2) have been met.

(2) AGGREGATE CREDITS.—

(A) IN GENERAL.—The aggregate credits allowed under subsection (a) for projects certified by the Secretary under paragraph (2) may not exceed $1,300,000,000.

(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify:

(i) $800,000,000 for integrated gasification combined cycle projects, and

(ii) $500,000,000 for projects which use other advanced coal-based generation technologies.

(4) REVIEW AND REDISTRIBUTION.—

(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall conduct a review to reallocate credits under this section as of the date which is 6 years after the date of enactment of this section.

(B) REDISTRIBUTION.—The Secretary may reallocate credits available under clauses (i) and (ii) of paragraph (3)(B) if the Secretary determines that—

(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

(ii) any certification made pursuant to subsection (d)(2) if the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

(5) QUALIFYING ADVANCED COAL PROJECTS.

(1) REQUIREMENTS.—For purposes of subsection (d)(2), a project shall be eligible for certification only if the Secretary determines that—

(A) the applicant for certification has received all Federal and State environmental authorizations or reviews necessary to commence construction of the project; and

(B) the applicant for certification, except in the case of a retrofit or repower of an existing electric generation unit, has purchased or entered into a binding contract for the purchase of the main steam turbine or turbines for the project, except that such contract may be contingent upon receipt of a certification under subsection (d)(2).

(2) PRIORITY FOR INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—In determining which qualifying advanced coal projects to certify under subsection (d)(2), the Secretary shall—

(A) certify projects constructed with bituminous coal as a primary feedstock;

(ii) projects using subbituminous coal as a primary feedstock, and

(iii) projects using lignite as a primary feedstock;

(B) give high priority to projects which include, as determined by the Secretary—

(i) greenhouse gas capture capability,

(ii) increased by-product utilization, and

(iii) other benefits.

(6) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—

(1) IN GENERAL.—For the purpose of this section, an electric generation unit uses advanced coal-based generation technology if—

(A) the unit—

(i) uses integrated gasification combined cycle technology, or

(ii) except as provided in paragraph (3), has a design net heat rate of 8500 Btu/kWh (40 percent efficiency), and

(B) the unit is designed to meet the performance requirements in the following table:

<table>
<thead>
<tr>
<th>Performance characteristic</th>
<th>Design level for project</th>
</tr>
</thead>
<tbody>
<tr>
<td>SO₂ (percent removal)</td>
<td>99 percent</td>
</tr>
<tr>
<td>NOₓ (emissions)</td>
<td>0.07 lb/MMBtu</td>
</tr>
<tr>
<td>PM* (emissions)</td>
<td>0.015 lb/MMBtu</td>
</tr>
<tr>
<td>H₂ (percent removal)</td>
<td>90 percent</td>
</tr>
</tbody>
</table>

(2) DESIGN NET HEAT RATE.—For purposes of this subsection, design net heat rate with respect to an electric generation unit shall—

(A) be measured in Btu per kilowatt hour (higher heating value),

(B) be based on the design annual heat input to the unit and the rated net electrical power, fuels, and chemicals output of the unit (determined without regard to the cogeneration of steam by the unit),

(C) be adjusted for the heat content of the design coal to be used by the unit.

(i) if the heat content is less than 13,500 Btu per pound, but greater than 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1 - ([13,500-design coal heat content, Btu per pound]/1,000) * 0.013], and

(ii) if the heat content is less than or equal to 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1 - ([11,500-design coal heat content, Btu per pound]/1,000) * 0.018], and

(D) be corrected for the site reference conditions of—

(i) elevation above sea level of 500 feet,

(ii) air pressure of 14.4 pounds per square inch absolute,

(iii) temperature, dry bulb of 63°F,
(iv) temperature, wet bulb of 54°F, and
(v) relative humidity of 5 percent.

(3) EXISTING UNITS.—In the case of any electric generation unit in existence on the date of the enactment of this section, such unit uses advanced coal-based generation technology if, in lieu of the requirements under paragraph (1)(A)(ii), such unit achieves a minimum efficiency of 35 percent, which includes overall thermal design, efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percentage points for coal of more than 9,000 Btu,
(B) 6 percentage points for coal of 7,000 to 9,000 Btu,
(C) 4 percentage points for coal of less than 7,000 Btu.

(g) APPLICABILITY.—No use of technology (or level of emission reduction solely by reason of the use of the technology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall be considered to indicate that the technology or performance level—

(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411); or

(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

(3) achievable in practice for purposes of section 171 of such Act (42 U.S.C. 7403).

SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.

(a) In general.—For purposes of section 48, the qualifying gasification project credit for any taxable year is an amount equal to 4 percent of the qualified investment for such taxable year.

(b) Qualified investment.—

(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

(A) the construction, reconstruction, or ejection of which is completed by the taxpayer, or

(B) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

(c) Alternative system.—

(1) AWARD RECIPIENT.—For purposes of subsection (a)(4), the award recipient shall be the recipient of the award as determined under paragraph (2) of section 48A(g)(1), or any successor of such award recipient.

(2) QUALIFYING GASIFICATION PROJECT.—

(A) IN GENERAL.—For purposes of subsection (a)(4), a qualifying gasification project means any project which—

(i) is located in the United States;

(ii) is a gasification project designed to produce biomass gasification project, and by adding after the item relating to section 48 the following new item:

(8) PETROLEUM RESIDUE.—The term ‘petroleum residue’ means a gasification product derived from petroleum processes.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to classification of certain property) is amended by striking ‘and’ and inserting ‘or’ and, by adding at the end the following new clause:

‘(viii) any section 1245 property (as defined in section 1245(a)(3)) used in the manufacture of a qualifying advanced coal project and is necessary for the gasification technology of such project;’.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of the Revenue Reconciliation Act of 1990.
(b) Treatment as New Identifiable Treatment Facility.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

`(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER DEC. 31, 2004—With respect to any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting ‘‘April 11, 2005’’ for ‘‘December 31, 2004’’ as it appears therein.’’

(c) Conforming Amendment.—The heading for section 169(d) is amended by inserting ‘‘AND SPECIAL DEFINITIONS’’ after ‘‘SHOULD APPLY TO’’.

(d) Technical Amendment.—Section 169(d)(3) is amended by striking ‘‘Health, Education, and Welfare’’ and inserting ‘‘Health and Human Services’’.

(e) Effective Date.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1110. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

‘‘(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.’’

(b) Treatment of Certain Decommissioning Costs.

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

‘‘(f) Transfers Into Qualified Funds.—(1) Transfers into qualified funds for nuclear decommissioning purposes. —In general.—The term ‘‘qualified fund’’ means any fund, incorporated or otherwise organized under State law or under laws of any other country, the purposes of which may be modified at the option of the taxpayer request from the Secretary a new identification number for such fund.

(2) Transfers into qualified funds.—Subject to paragraph (1), the taxpayer requests from the Secretary a new identification number for such fund.

(3) No Deductions in Qualified Funds.—Notwithstanding any other provision of law, the taxpayer’s basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.

(4) Special Rules relating to refund.—For purposes of a net operating loss to which an election under clause (i) applies, references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to any other provision of law means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to taxes imposed by the Internal Revenue Code; such term includes any tax upon the transfer of property, or the capital thereof, chargeable to capital account, made by the taxpayer which is attributable to taxes imposed by the Internal Revenue Code.

(5) Special Rules relating to refund.—For purposes of this subsection—

‘‘(I) ELECTRIC TRANSMISSION PROPERTY CAPITAL EXPENDITURES.— The term ‘electric transmission property capital expenditures’ means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to transmission of electric energy at a transmission voltage of 69 or more kilovolts of electricity for sale. Such term shall not include any expenditure which may be reduced or excluded on the basis of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.

(II) POLLUTION CONTROL FACILITY CAPITAL EXPENDITURES.—The term ‘pollution control facility capital expenditures’ means any expenditure, chargeable to capital account, made by an electric utility company which is attributable to any pollution control facility which will qualify as a certified pollution control facility as determined under section 169(d)(1)(B) by striking ‘before January 1, 1976,’ and by substituting ‘‘before January 1, 1979’’.

Subtitle B—Domestic Fuel Security

SEC. 1321. EXTENSION OF CREDIT FOR PRODUCING FUNDS RELATED TO NONCONVENTIONAL SOURCE FOR FACILITIES PRODUCING COKE OR COKE GAS.

(a) IN GENERAL.—Section 29 (relating to a credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

‘‘(b) EXTENSION FOR FACILITIES PRODUCING COKE OR COKE GAS.—Notwithstanding subsection (f)—

‘‘(1) in the case of a facility for producing coke or coke gas in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010, this section shall apply with respect to coke and coke gas produced in such facility and sold during the period—

‘‘(A) beginning on the later of January 1, 2006, or the date that such facility is placed in service, and

‘‘(B) ending on the date which is 4 years after the date such period began;

‘‘(2) in the case of a facility for producing coke or coke gas in service before January 1, 1993, after January 1, 2006, and before January 1, 2010, this section shall apply with respect to coke and coke gas produced in such facility and sold during the period—

‘‘(A) beginning on the later of January 1, 2006, or the date that such facility is placed in service, and

‘‘(B) ending on the date which is 4 years after the date such period began.

‘‘(2) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

‘‘(A) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by a taxpayer in connection with respect to any facility shall not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. One barrel of oil is the average of one barrel of oil as specified by the Secretary. The cost of the fuel placed in service in a taxable year shall be determined on the basis of the average price of fuel as determined by the Secretary for the taxable year and for purposes of this subsection for the taxable year in which such fuel was placed in service. The average price of fuel in any taxable year shall be the average price of fuel placed in service for the taxable year.’’

(b) Extension Period to Commence with Use of New Credit Amount.—For purposes of applying subsection (b)(2), the amount of any credit allowed under this subsection for any taxable year shall be the amount of the new credit allowed under this subsection for any taxable year beginning after December 31, 2004.

(c) Denial of Double Benefit.—This subsection shall not apply to any facility producing qualified fuels for which a credit was allowed under subsection (a) or (b) of section 468A for any taxable year beginning after December 31, 2004.

In the case of any election under clause (i) of paragraph (2) of section 468A, the deduction allowed by subsection (e) shall be treated as timely filed if filed within 24 months after the date specified under such section.
(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel produced and sold after December 31, 2005, in taxable years ending after such date.

SEC. 1225. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(A) TREATMENT OF NONCONVENTIONAL SOURCE CREDIT.—(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 45I as a subchapter and by moving subsection 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (29), by striking the period at the end of paragraph (21) and inserting “; plus”, and by adding at the end the following:

“(22) the nonconventional source production credit determined under section 45K(a).”

(B) FORM AND EFFECT OF ELECTION.—(1) IN GENERAL.—An election under this section may be treated as an election for purposes of section 1397B of the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1226. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1225. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(A) TREATMENT OF NONCONVENTIONAL SOURCE CREDIT.—(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 45I as a subchapter and by moving subsection 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (29), by striking the period at the end of paragraph (21) and inserting “; plus”, and by adding at the end the following:

“(22) the nonconventional source production credit determined under section 45K(a).”

(B) FORM AND EFFECT OF ELECTION.—(1) IN GENERAL.—An election under this section may be treated as an election for purposes of section 1397B of the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1226. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1225. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(A) TREATMENT OF NONCONVENTIONAL SOURCE CREDIT.—(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 45I as a subchapter and by moving subsection 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (29), by striking the period at the end of paragraph (21) and inserting “; plus”, and by adding at the end the following:

“(22) the nonconventional source production credit determined under section 45K(a).”

(B) FORM AND EFFECT OF ELECTION.—(1) IN GENERAL.—An election under this section may be treated as an election for purposes of section 1397B of the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1226. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) IN GENERAL.—(1) The term ‘qualified refinery’ means—

(A) any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to properties placed in service after December 31, 2005, in taxable years ending after such date.
in service after the date of the enactment of this Act.

SEC. 1234. PASS THROUGH TO OWNERS OF DEPRECIABLE CAPITAL COSTS INCURRED BY SMALL REFINEE CO-OPERATIVES IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.
(a) In General.—Section 179B (relating to deduction for capital costs incurred in complying with applicable regulations of the Environmental Protection Agency) is amended by adding at the end the following new subsection:

(1) In General.—

(A) a small business refiner to which subsection (1) applies, and

(B) one or more persons directly holding an ownership interest in the refiner are organizations to which part I of subtitle C of subchapter T apply, and

Refiner may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the refiner shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

(2) Form and Effect of Election.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

(3) Notice Required.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Notice shall be provided before the date on which the return described in paragraph (2) is due.

The amendment made by this section shall take effect as if included in the amendment made by section 338(a) of the American Jobs Creation Act of 2004.

SEC. 1235. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.
(a) IN GENERAL.—Subsection 168(c)(3)(E) (defining 15-year property, as amended by this Act, is amended by striking “and” at the end of clause (vi), by striking the period at the end of clause (vii) and by inserting “, and”, and by adding at the end the following new clause:

“(viii) any natural gas distribution line the original use of which commences with the tax year;”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(q)(3)(B) (relating to special rules for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

“(E)(iv) 14...”.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(q)(3)(B) (relating to special rules for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (E)(iv) the following new item:

“(E)(viii) 35...”.

SEC. 1237. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.
(a) IN GENERAL.—Subsection (b) of section 148 (relating to arbitrage provisions for any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

(i) the amount of natural gas needed (other than for resale), and

(ii) the amount of natural gas to be used to transport natural gas to the utility.

(b) ALTERNATIVE SYSTEM.—The term ‘qualified natural gas supply contract’ means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

(i) the amount of natural gas purchased by the utility during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

(c) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i) of items (i) only if the electricity is generated by a utility owned by a governmental unit, and

(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

(d) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.

(1) NEW BUSINESS CUSTOMERS.—If—

(I) the close of the testing period and before the date of issuance of the issue, the utility

(ii) the utility is treated as owning the natural gas in the case described in clause (i)(C)(iv).
paragraph (B) and inserting ‘‘, or’’, and by adding at the end the following new subparagraph:
(C) is a qualified natural gas supply contract (as defined in section 168(h)(4)).]
(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the following new paragraph:
‘‘(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term ‘nongovernmental output property’ shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).’’
(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1329. DETERMINATION OF SMALL REFINDER EXCLUSION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:
‘‘(4) Certain refiners excluded.—If the taxpay- er 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 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.
(b) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1329. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by inserting ‘‘, and’’ after ‘‘to the extent that’’ and by inserting the following new subsection:
‘‘(h) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—
‘‘(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 168) shall be allowed as a deduction so allowed.
‘‘(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the midpoint of such taxable year.
‘‘(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payment.
‘‘(4) TREATMENT UPON ABANDONMENT.—If any property with respect to which geological and geophysical expenses are paid or incurred is re- tained on the books of the taxpayer during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such abandonment and the amortization deduction under this subsection shall continue with respect to such payment.
(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ‘‘167(h), after ‘‘under section’’.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

Title C—Conservation and Energy Efficiency Provisions

SEC. 1331. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Subtitle 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. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.
(b) MAXIMUM DEDUCTION.—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—
(A) the product of

$1.80 and

(B) the square footage of the building, over

(c) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.
(d) DEFINITIONS.—For purposes of this section—
‘‘(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term ‘energy efficient commercial building property’ means property—
(A) with respect to which depreciation (or amortization in lieu of depreciation) is allow- able,
(B) which is installed on or in any building which is—
(i) located in the United States, and
(ii) within the scope of Standard 90.1—2001,
(C) which is installed as part of—
(i) the interior lighting systems,
(ii) the heating, cooling, ventilation, and hot water systems,
(iii) the building envelope, and
(D) which is certified in accordance with subparagraph (C) to meet the requirements of Standard 90.1—2001.
(d) SPECIAL RULES.—
‘‘(1) PARTIAL ALLOWANCE.—
‘‘(A) IN GENERAL.—Except as provided in sub- section (f), if—
(i) the requirement of subsection (c)(1)(D) is not met, but
(ii) there is a certification in accordance with subparagraph (C) to meet the requirements described in sub- section (c)(1)(C) which satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system, then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such sys- tem, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system in excess as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting ‘$8.60’ for ‘$1.80’.
‘‘(2) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which de- scribe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of section 103 of the 2003 California Nonresidential Alternative Calculation Method Approval Manual.
‘‘(3) COMPUTER SOFTWARE.—
‘‘(A) IN GENERAL.—The deduction calculated under paragraph (2) shall be prepared by qualified computer software.

‘‘(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term ‘qualified computer software’ means software—
‘‘(i) for which the software designer has deter- mined the software sources and detailed methods for calculating energy and power consumption and costs as required by the Secretary,
(B) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction al- lowed under this section, and
(C) which provides such forms as required to document the energy efficiency features of the building and its projected annual energy costs.
‘‘(4) AMORTIZATION OF DESTRUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government agency or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the prop- erty in lieu of the owner of such property. Such person shall be treated as the taxpayer for pur- poses of this section.
‘‘(5) NOTICE TO OWNER.—Each certification re- quired under this section shall include an expla- nation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).
‘‘(6) CERTIFICATION.—
‘‘(A) IN GENERAL.—The Secretary shall pre- scribe the manner and method for the making of certifications under this section.
‘‘(B) PROCEDURES.—The Secretary shall in- clude as part of the certification process proce- dures for inspection and testing by qualified indi- viduals described in subparagraph (C) to en- sure compliance of buildings with energy-sav- ings plans and targets. Such procedures shall be comparable, given the difference between com- mercial and residential buildings, to the require- ments in the Mortgage Industry National Ac- creditation Procedures for Home Energy Rating Systems.
‘‘(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an or- ganization certified by the Secretary for such purposes.
‘‘(D) BASIS REDUCTION.—For purposes of this sub- title, if a deduction is allowed under this sec- tion with respect to any energy efficient com- mercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.
‘‘(E) INTERIM RULES FOR LIGHTING SYSTEMS.—
‘‘(A) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduc- tion in lighting power density of 25 percent (50 percent in the case of a warehouse) of the min- imum requirements in Table 9.1.1.1 or Table 9.1.1.2 (not including additional interior lighting power allowances) of Standard 90.1—2001.
‘‘(2) REDUCTION IN DEPRESSION IF REDUCTION LESS THAN 25 PERCENT.—
‘‘(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 per- cent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.
‘‘(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be 100 plus the amount of the increase in lighting power density of the lighting system over 25 percent points to 15.

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Sec. 1322. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(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. NEW ENERGY EFFICIENT HOME CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) In General.—For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is—

(A) constructed by the eligible contractor, and

(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

(b) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

(A) in the case of a dwelling unit described in paragraph (1) or (2) of subsection (c), $2,000, and

(B) in the case of a dwelling described in paragraph (2) of subsection (a), $1,000, and

(C) excepted under section 179D.

(b) TERMINATION.—This section shall not apply to any qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

(2) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘qualified new energy efficient home’ means a dwelling unit—

(A) located in the United States,

(B) the construction of which is substantially complete not later than the date of the enactment of this section, and

(C) which meets the energy saving requirements of subsection (c).

(c) CONSTRUCTION.—The term ‘construction’ includes substantial reconstruction and rehabilitation.

(d) ACQUIRE.—The term ‘acquire’ includes purchase.

(e) ENERGY SAVING REQUIREMENTS.—A dwelling unit meets the energy saving requirements of this subsection if such unit is—

(1) certified—

(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit—

(B) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

(2) (A) the person who constructed the qualified new energy efficient home, or

(B) the contractor of the new energy efficient home which is a manufactured home, the manufactured home producer of such home.

(e) BASIS ADJUSTMENT.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified new energy efficient homes acquired after December 31, 2005.

Sec. 1333. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) In General.—Subpart A 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. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

(b) LIMITATIONS.—

(1) LIFETIME LIMITATION.—The credit allowed under this section with respect to any individual shall not exceed the excess (if any) of $500 over the aggregate credits allowed under this section with respect to such individual for all prior taxable years.

(2) WINDOWS.—In the case of amounts paid or incurred for components described in subsection (c)(1) of part IV of subchapter A of chapter 1 (relating to business related credits), by any taxpayer for a taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of $200 over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years.

(3) LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXEMPTIONS.—The credit allowed under this section by reason of subsection (a)(2) shall not exceed—

(a) 20 percent of the capital cost of the property acquired, in the case of a residential dwelling unit, unless the dwelling unit is a manufactured home, the manufactured home producer of such home, or

(b) 10 percent of the capital cost of the property, in the case of a nonresidential property.
"(A) $90 for any advanced main air circulating fan,
(B) $150 for any qualified natural gas, propane, or oil furnace or hot water boiler, or
(C) Subject to any item of energy-efficient building property.

"(C) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.

(1) IN GENERAL.—The term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which meets the performance criteria for the component established by the 2009 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

(A) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

(B) such component is installed by a residential contractor (as defined in section 163(f)), and

(C) such component reasonably can be expected to remain in use for at least 5 years.

(2) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

(A) any insulation material or system which is specifically designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

(B) exterior windows (including skylights),

(C) external doors,

(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

(3) MANUFACTURED HOMES INCLUDED.—The term ‘qualified energy efficiency improvement’ includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations)."
(1) In general.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

(A) the number of appliances of such type which were produced by the taxpayer in the United States during such calendar year, over

(B) the average number of appliances of such type which were produced by the taxpayer in the United States during the preceding 3-calendar year period.

(2) Special rule for refrigerators.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

(A) the number of appliances of such type which were produced by the taxpayer in the United States during such calendar year, over

(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

(3) Types of energy efficient appliances.—For purposes of this section, the types of energy efficient appliances are—

(a) dishwashers described in subsection (b)(1)(A),

(b) clothes washers described in subsection (b)(1)(B),

(c) refrigerators described in subsection (b)(1)(C),

(d) water heaters described in subsection (b)(1)(D),

(e) boilers described in subsection (b)(1)(E),

(f) small wind turbines described in subsection (b)(1)(F),

(g) water heating property expenditures made by the taxpayer during such year, and

(h) energy-saving improvements made by the taxpayer during such year.

(4) Dollar amounts for 2007.—The aggregate amount of the credit allowed under subsection (b) for 2007 shall not exceed $20,000,000.

(5) Carryforwards of unused credit.—If the aggregate amount of the credit allowed under subsection (b) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allocable under subsection (b) for all prior taxable years, the excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (b) for such succeeding taxable year.

(6) Definitions.—For purposes of this section—

(A) the term ‘energy efficient appliance’ means—

(i) any dishwasher described in subsection (b)(1)(A),

(ii) any clothes washer described in subsection (b)(1)(B), and

(iii) any refrigerator described in subsection (b)(1)(C).

(B) The term ‘dishwasher’—The term ‘dishwasher’ means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

(C) The term ‘clothes washer’—The term ‘clothes washer’ means a residential model clothes washer, including a residential style coin operated washer.

(D) The term ‘refrigerator’—The term ‘refrigerator’ means a residential model automatic defrost refrigerator-freezer which contains an internal volume of at least 16.5 cubic feet.

(E) The term ‘EF’ means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

(F) The term ‘producer’ includes manufacturers.

(7) 2001 energy conservation standard.—The term ‘2001 energy conservation standard’ means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

(8) General rules.—For purposes of this section—

(1) In general.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

(2) Controlled group.—(A) In general.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer.

(B) Included with foreign corporations.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1562 shall be applied without regard to subsections (b)(1)(B) thereof.

(3) Verification.—(a) Amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.

(b) Conforming amendment.—Section 28(b) (relating to general business credit), as amended by this Act, is amended by striking ‘plus’ at the end of paragraph (22), by striking the period at the end of subsection (a), by inserting ‘plus’, and by adding at the end the following new paragraph:

(24) the energy efficient appliance credit determined under subsection (a),

(c) Clerical amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

‘‘Sec. 45M. Energy efficient appliance credit.’’

(d) Effective date.—The amendments made by this section shall apply to appliances produced after December 31, 2005.

SEC. 1255. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable credits) is amended by inserting after section 25C the following new section:

‘‘Sec. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) Allowance of credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

(1) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year, and

(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

(b) Limitations.—(1) Maximum credit.—The credit allowed under subsection (a) for any taxable year shall not exceed—

(A) $2,000 with respect to any qualified photovoltaic property expenditures,

(B) $2,000 with respect to any qualified solar water heating property expenditures, and

(C) $500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

(c) Certification of qualified solar water heating property.—No credit shall be allowed under this section for any item of property described in subsection (d)(1) unless such property is certified by the Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

(d) Carryforward of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allocable under subsection (a) for all prior taxable years, the excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

(e) Definitions.—For purposes of this section—

(A) Qualified fuel cell property expenditures.—The term ‘qualified fuel cell property expenditures’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

(B) Qualified solar water heating property expenditure.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

(C) Qualified fuel cell property expenditure.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the owner of such unit as his principal residence (within the meaning of section 121) of the taxpayer.

(D) Cost of qualified fuel cell property.—(1) In general.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

(2) Cost of qualified solar water heating property.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.
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]Purposes of such paragraph 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 is equal to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).

(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

(6) 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 made such individual’s proportionate share of any expenditures of such association.

(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of paragraph (A), the term ‘‘condominium management association’’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (A) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(7) ALLOCATION IN CERTAIN CASES.—If less than the amount of expenditures of such item for non-business purposes, only that portion of the expenditures for such item which is properly allocable for use for nonbusiness purposes shall be taken into account.

(8) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of expenditures made by such individual with respect to any dwelling unit shall be treated as made when the original installation of the item is completed.

(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—Except as provided in subparagraph (A), in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

(9) 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 not be taken into account expenditures which are made from subsidized energy financing (as defined in section 25D(c)(4)).

(f) BASIS ADJUSTMENTS.—For purposes of this subsection, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

(g) TERMINATION.—The credit allowed under this section shall not apply to property placed in service after December 31, 2007.

(b) CONFORMING AMENDMENTS.—(1) Section 310E(c)(1) is amended by striking “this section and section 1400C” and inserting “this section, section 25D, and section 1400C”.

(2) Section 25(e)(1)(C) is amended by striking “this section and section 1400C” and inserting “this section, section 25D, and section 1400C”.

(3) Section 1400C(d) is amended by striking “this section” and inserting “this section and section 25D”.

(4) Section 1016(a), as amended by this Act, is amended by inserting’, at the end of paragraph (33), by striking the period at the end of paragraph (33) and inserting ‘‘, and by adding at the end the following new paragraph:

‘‘(32) In the case of qualified microturbine property placed in service before January 1, 2008, and after December 31, 2005, in taxable years ending after such date.’’.

(5) The table of sections for subsection A of part IV of chapter 1 of chapter 25, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

‘‘Sec. 25D. Residential energy efficient property.’’

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1336. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ‘‘or’’ at the end of clause (i), by inserting ‘‘or’’ at the end of clause (ii), and by inserting after clause (ii) the following new clause:

‘‘(iii) qualified fuel cell property or qualified microturbine property.’’.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48 (relating to energy credit) is amended by adding at the end the following new subsection:

‘‘(c) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

‘‘(1) QUALIFIED FUEL CELL PROPERTY.—(A) IN GENERAL.—The term ‘‘qualified fuel cell property’’ means a fuel cell power plant which—

‘‘(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

‘‘(ii) has an electricity-only generation efficiency greater than 30 percent.

‘‘(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined with respect to such property shall not exceed an amount equal to $200 for each kilowatt of capacity of such property.

‘‘(C) STATIONARY MICROTURBINE PROPERTY.—The term ‘stationary microturbine property’ means property which is used predominantly (for periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this Act) for purposes of heating a swimming pool,” after “solar process heat.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1990).
Subtitle D—Alternative Motor Vehicles and Fuels Incentives

SEC. 1341. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) In general.—Subpart B of part IV of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. 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—

// The following table is provided in subsection (b)(2)(B) with respect to such vehicle. //

// (B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to an advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance with the following table: //

// In the case of a vehicle which achieves a fuel economy expressed as a percentage of the 2002 model year city fuel economy of— //

// The conservation credit amount is— //

// At least 125 percent but less than 150 percent ........................................ $400 //

// At least 150 percent but less than 175 percent ........................................ $800 //

// At least 175 percent but less than 200 percent ........................................ $1,200 //

// At least 200 percent but less than 225 percent ........................................ $2,000 //

// At least 225 percent but less than 250 percent ........................................ $2,400 //

// (ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle. //

// (b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.— //

// For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle which achieves a fuel economy expressed as a percentage of the 2002 model year city fuel economy of— //

// The conservation credit amount is— //

// At least 125 percent but less than 150 percent ........................................ $400 //

// At least 150 percent but less than 175 percent ........................................ $800 //

// At least 175 percent but less than 200 percent ........................................ $1,200 //

// At least 200 percent but less than 225 percent ........................................ $2,000 //

// At least 225 percent but less than 250 percent ........................................ $2,400 //

/
“(D) which is made by a manufacturer.

(4) LIFETIME FUEL SAVINGS.—For purposes of this subsection, the term ‘lifefime fuel savings’ means, in the case of any new advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

(A) 120,000 divided by the 2002 model year city fuel economy for the vehicle inertia weight class, over

(B) 120,000 divided by the city fuel economy for such vehicle.

(6) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

(I) IN GENERAL.—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(1) in general,—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—

(1) an internal combustion or heat engine using consumable fuel, and

(2) a rechargeable energy storage system,

(2) which is the case of a vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 241(c)(2)(C) of the Clean Air Act for that make and model year, and

(3) in the case of a vehicle having a gross vehicle weight rating of not more than 8,500 pounds, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(n)(1) of the Clean Air Act for that make and model year vehicle, and

(II) in the case of a vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 8,500 pounds, the Bin 5 Tier II emission standard which is so established,

(III) which has a maximum available power of at least—

(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

(II) 10 percent in the case of a vehicle which has a gross vehicle weight rating or more than 8,500 pounds and,

(III) 15 percent in the case of a vehicle in excess of 14,000 pounds,

(4) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emissions standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or off-highway heavy duty engines, as applicable.

(v) the original use of which commences with the taxpayer,

(vi) which is acquired for use or lease by the taxpayer and not for resale, and

(vii) which is made by a manufacturer.

Such term shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

(B) CONSUMABLE FUEL.—For purposes of subparagraph (A), the term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

(C) MAXIMUM AVAILABLE POWER.—

(I) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(C) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power equivalent test, divided by such maximum power and the SAE net power of the heat engine.

(II) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(D) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power equivalent test, divided by the vehicle’s total traction power. For purposes of the preceding sentence, 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 vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

(3) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

(I) ALTERNATIVE FUEL CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to 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.

(II) APPLICABLE PERCENTAGE.—For purposes of paragraph (I), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

(A) 50 percent, plus

(B) 30 percent, if such vehicle—

(i) has received a certificate of conformity under the California Air Resources Board for that make and model year vehicle, and

(ii) has received a certificate of conformity under the Clean Air Act for that make and model year vehicle (other than a zero standard emission), or

(iii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds and which releases energy when consumed by an auxiliary power unit, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2005.

(III) INCENTIVAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, 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) 10,000, 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.

(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

(i) which is capable of operating on an alternative fuel,

(ii) the original use of which commences with the taxpayer,

(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

(iv) which is made by a manufacturer.

(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of which consists of the following:

(i) Methanol

(ii) Ethanol

(iii) Biodiesel

(iv) Dimethyl ether

(v) Natural gas

(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘mixed-fuel vehicle’ means any motor vehicle described in subparagraph (A), (B), (C), or (D) of paragraph (3), which—
“(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel.

(ii) has received a certificate of conformity under the Clean Air Act, or

(iii) has received prior certification of the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle.

(iii) the original use of which commences with the taxpayer.

(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

(c) (2) a manufacturer.

(c) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using not less than 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

(d) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—(1) IN GENERAL. In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) or (d) shall be allowed.

(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning on the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle (as described in paragraph (1) sold for use in the United States after December 31, 2005, is at least 60,000.

(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

(A) 50 percent for the first 2 calendar quarters of the phaseout period.

(B) 25 percent for the 3rd and 4th calendar quarters of the phaseout period, and

(C) 0 percent for each calendar quarter thereafter.

(g) CONTROLLED GROUPS.—(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection 412 shall be treated as a single manufacturer.

(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

(h) QUALIFIED HYBRID VEHICLE.—(1) APPLICABLE VEHICLE.—(A) The term ‘qualified vehicle’ means any new qualified hybrid motor vehicle (as described in subsection (d)(2)(A)) and any new advanced lean burn technology motor vehicle.

(G) APPLICATION WITH OTHER CREDITS.—(1) BUSINESS CREDIT TREATED AS PART OF GENERAL CREDIT.—The credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

(2) ELECTRIC VEHICLE CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

(A) the tentative minimum tax for the taxable year.

(B) the tentative minimum tax for the taxable year.

(C) the tentative minimum tax for the taxable year.

(D) the tentative minimum tax for the taxable year.

(E) the tentative minimum tax for the taxable year.

(F) the tentative minimum tax for the taxable year.

(G) the tentative minimum tax for the taxable year.

(H) OTHER DEFINITIONS AND SPECIAL RULES.—(1) MOTOR VEHICLE.—‘Motor vehicle’ has the meaning given such term by section 30(c)(2).

(2) 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 procedures under part 600 subchapter Q of title 49, Code of Federal Regulations, as in effect on the date of the enactment of this section.

(3) OPTIONS.—(A) ‘Alternative power’, ‘alternative fuel’, ‘alternative fuel vehicle’, ‘mixed-fuel vehicle’, ‘medium duty passenger vehicle’, ‘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.).

(4) REDUCTION IN 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 allowed (determined without regard to subsection (a)).

(5) NO DOUBLE BENE-FIT.—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 (e) 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 credit allowed under subsection (a) for such vehicle for the taxable year.

(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In addition to the credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (a)), the applicable percentage of the credit otherwise allowable under subsection (a) with respect to such vehicle shall be treated as the taxpay-er that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (a)).

(7) PROPERTY USED OUTSIDE UNITED STATES, ETC.—No credit shall be allow-able under subsection (a) with respect to any property referred to in section 59(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (a)).

(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be properly eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

(9) ELECTRIC VEHICLE CREDIT—NO TAX CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

(10) INCREASED SAFETY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall be considered eligible for a credit under this section unless such vehicle is in compliance with—

(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 7506(b) of the Clean Air Act), and

(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

(11) TERMINATION.—This section shall not apply to any property in which the term ‘qualified motor vehicle’ has the meaning given to such term by section 179A(d), but only with respect to any fuel—
(A) at least 85 percent of the volume of which consists of 1 or more of the following: ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen.

(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

(3) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)), for any taxable year shall not exceed the excess (if any) of—

(A) the regular tax reduced by the sum of the credits allowable under subsection A and sections 27, 30, and 30B, over

(B) the tentative minimum tax for the taxable year.

(e) SPECIAL RULES.—For purposes of this section—

(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

(2) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

(3) PROPERTY OWNED OUTSIDE UNITED STATES OR BY A PERSON NOT TREATED AS A UNITED STATES PERSON.—Any credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

(4) ELECTRON NOT TO TAKE CREDIT.—No credit shall be allowable under subsection (a) for any taxable year (determined without regard to subsection (d)).

(5) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

(f) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

(2) TERMINATION.—This section shall not apply to any property placed in service—

(1) after December 31, 2009., and

(2) in the case of any other property, after December 31, 2009.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting “; and”, and by adding at the end the following new paragraph:

(26) the portion of the alternative fuel vehicle property credit to which section 303(d)(1) applies.

(2) Section 161(a), as amended by this Act, is amended by striking “and” at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting “; and”, and by adding at the end the following new paragraph:

(27) to the extent provided in section 30C(b)(1)."

(c) SPECIAL RULES.—For purposes of this section—

(1) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).

(2) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D)."

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

(1) LATER SEPARATION OF FUEL FROM D ISEL-W ATER FUEL E MULSION .—If any person separates the diesel fuel from the diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 4627), such person shall be treated as the producer of such fuel for purposes of such subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 4627) and as the producer of such fuel for purposes of such subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 4627).

(3) CREDIT CLAIMS.—(1) Paragraphs (1) and (2) of section 4627(i) are amended by striking “(m)”, after “(i)”, and by inserting “; and”, and by adding at the end the following new paragraph:

(2) ELECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1344. EXTENSION OF EXCISE TAX PROVISIONS AND INCOME TAX CREDIT FOR BIODIESEL.

(a) IN GENERAL.—Section 40A(e), 6246(c)(6), and 6247(e)(4)(B) are each amended by striking “2006” and inserting “2008”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1345. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) IN GENERAL.—Subsection (a) of section 40A (relating to biodiesel used as a fuel) is amended to read as follows:

(1) the biodiesel mixture credit, plus

(2) the biodiesel credit, plus

(3) the biodiesel producer credit.

(4) the biodiesel producer credit defined under section 30B(g)(2),

(5) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.

(b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DEFINED.—Section 40A(b) (relating to definition of biodiesel mixture credit and biodiesel credit) is amended by adding at the end the following new paragraph:

(37) to the extent provided in section 30B(g)(2),

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2006, in taxable years ending after such date.

SEC. 1345. R EDEFINITION FOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

(2) DIESEL-FUEL WATER EMULSION.—In the case of diesel-fuel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(ii) shall be applied by substituting ‘‘19.7%’’ for ‘‘24.3%’’. The preceding sentence applies to the removal, sale, or use of diesel-fuel-water fuel emulsion without the person so removing, selling, or using such fuel is registered under section 4101.

(b) SPECIAL RULES FOR DIESEL-FUEL WATER EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (a), (b), and (c) as subsections (n), (o), and (p), respectively, and by inserting after subsection (l) the following new subsection:

(m) DIESEL-FUEL USED TO PRODUCE EMULSION.

(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) 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 this paragraph—

(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4081.

(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means the aggregate rate of tax imposed by section 4081.

(c) LIMITATION.—The qualified agri-biodiesel production of any producer for any taxable year shall not exceed 15,000,000 gallons.

(d) DEFINITIONS AND SPECIAL RULES FOR SMALL AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of this paragraph—

(1) ELIGIBLE SMALL AGRI-BIODIESEL PRODUCER.—The term ‘eligible small agri-biodiesel producer’ means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267)(j) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

(3) EXEMPTION FOR SABRETT CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(5)(C) and (D) shall be applied at the entity level and at the partner or similar level.
(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such facility in the same manner as provided for in subsection (a)(2) from directly or indirectly benefitting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary.

SEC. 1346. RENEWABLE DIESEL.

(a) IN GENERAL.—Subsection (a) (relating to biodiesel used as fuel), as amended by this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) RENEWABLE DIESEL.—For purposes of this title—

"(1) TREATMENT IN THE SAME MANNER AS BIO-

"(2) EXCEPTIONS.—(A) RATE OF CREDIT.—Subsections (b)(1)(A) and (b)(2)(A) shall be applied with respect to renewable diesel by substituting "$1.00" for "50 cents"

(b) NONAPPLICATION OF CERTAIN CREDITS.—Subsections (b)(1)(A) and (b)(5)(A) shall not apply with respect to renewable diesel.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1346A. RENEWABLE DIES"
SEC. 1353. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT. (a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study to define and evaluate the health, safety, security, and infrastructure external costs and benefits associated with the production and consumption of energy that are not or may not be fully incorporated into the market price of such energy, or into the Federal tax or fee or other applicable revenue measure related to such production or consumption. (b) REPORT.—Not later than 2 years after the date on which the agreement under subsection (a) is entered into, the National Academy of Sciences shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1355. RECYCLING STUDY. (a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Energy, shall conduct a study to—
(1) determine and quantify the energy savings achieved through the recycling of glass, paper, plastic, steel, aluminum, and electronic devices; and
(2) identify tax incentives which would encourage recycling of such material. (b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

Subtitle F—Revenue Raising Provisions

SEC. 1361. OIL SPILL LIABILITY TRUST FUND FINANCING RATE. Section 4611(f) (relating to application of oil spill liability trust fund financing rate) is amended—
(1) by striking “1986” and inserting “2004”; and
(2) by striking “1990” and inserting “2005”.

SEC. 1362. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE. (a) IN GENERAL.—Paragraph (3) of section 4081(d) (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking “2010” and inserting “2013”. (b) NO EXEMPTIONS FROM TAX EXCEPT FOR EXPORTS. (1) IN GENERAL.—Section 4002(a) (relating to exemptions for diesel fuel and kerosene) is amended by inserting “and the use of ethanol in fuel, gasoline, and diesel fuel” before “or kerosene”. (2) AMENDMENTS RELATING TO SECTION 4041.— (A) Section 4041(b), (d)(2), and (f)(2) of section 4041 are each amended by inserting “other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate” in each place where such words appear. (B) Section 4041(b)(1)(A) is amended by striking “or (d)(1)”.

SEC. 1404. PETROCHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT. (a) ESTABLISHMENT.—The Secretary shall conduct a study of direct and significant health impacts to persons residing in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal agencies conducting assessments of risks to human health and shall use sound and objective scientific practices in assessing such risks. The Secretary shall have the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such impacts.

Subtitle H—Miscellaneous

Title XIX—Miscellaneous

Subtitle A—In General

SEC. 1401. SENSE OF CONGRESS ON RISK ASSESSMENTS. Subtitle B of title XXX of the Energy Policy Act of 1992 is amended by adding at the end the following new section:

SEC. 1363. MODIFICATION OF RECUPARATION RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES. (a) IN GENERAL.—Subsection (b) of section 1245 (relating to amortization of certain intangible property) is amended by adding at the end the following new paragraph: (9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.— (A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable section 197 intangibles shall be treated as 1 section 197 property for purposes of this section.
(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions of property after the date of the enactment of this Act.

SEC. 1364. CLARIFICATION OF THE EXCISE TAX. (a) IN GENERAL.—Section 4021(e) (relating to excise tax on super single tires) is amended by adding at the end the following new paragraph: The number of tires in each such class on which tax is imposed under such section during such period.

(2) REPORT.—Not later than July 1, 2007, the Secretary of the Treasury shall submit to Congress a report on the study conducted under paragraph (1).

TITLe XIV—Miscellaneous

Subtitle A—In General

SEC. 1352. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT. (a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1402. ENERGY PRODUCTION INCENTIVES. (a) IN GENERAL.—A State may provide to any entity— (1) a tax credit against any tax or fee owed to the State under a State law, or (2) any other tax incentive, determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall— (1) be considered to be a reasonable regulation of commerce; and
(2) not be considered to impose an undue burden on interstate commerce, for otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1403. REGULATION OF CERTAIN OIL USED IN TRANSPORTATION FROM ENERGY TECHNOLOGY. Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as ther-
SEC. 1405. NATIONAL PRIORITY PROJECT DESIGNATION.
(a) Designation of National Priority Projects—
(1) In general.—There is established the National Priority Project Designation (referred to in this section as the “Designation”), which shall be evidenced by a medal bearing the inscription “National Priority Project”.
(2) Design and materials.—The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.
(b) Making and presentation of designation.
(1) In general.—The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—
(A) advanced the field of renewable energy technology and contributed to North American energy independence; and
(B) been certified by the Secretary under subsection (e).
(2) Presentation.—The President shall designate projects with such ceremonies as the President may prescribe.
(c) Use of designation.—An organization that receives a Designation under this section may publicly display the Designation as a National Priority Project in advertising.
(d) Categories in which the designation may be given.—Separate Designations shall be made to qualifying projects in each of the following categories:
(1) Wind and biomass energy generation projects.
(2) Solar photovoltaic and fuel cell generation projects.
(3) Energy efficient building and renewable energy projects.
(D) First-In-Class projects.
(e) Selection criteria.—
(1) In general.—Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.
(2) Wind, biomass, and building projects.—In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.
(3) Solar photovoltaic and fuel cell projects.—In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.
(f) Goals.
(1) Study.—The Secretary shall conduct a study of the application of radiation to petroleum at standard temperature and pressure to refine petroleum products, whose objective shall be to increase the economic yield from each barrel of oil.
(2) Goals.—The goals of the study shall include—
(A) increasing the value of our current oil supply;
(B) reducing the capital investment cost for cracking oil;
(C) reducing the operating energy cost for cracking oil; and
(D) reducing sulfur content using an environmentally responsible method.
(g) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

SEC. 1406. COLD CROWN.
(a) Study.—The Secretary shall conduct a study of the application of radiation to petroleum at standard temperature and pressure to refine petroleum products, whose objective shall be to increase the economic yield from each barrel of oil.
(b) Goals.—The goals of the study shall include—
(1) increasing the value of our current oil supply;
(2) reducing the capital investment cost for cracking oil;
(3) reducing the operating energy cost for cracking oil; and
(4) reducing sulfur content using an environmentally responsible method.
(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

SEC. 1407. OXYGEN-FUEL.
(a) Program.—The Secretary shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit.
(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for this purpose—
(1) $100,000,000 for fiscal year 2006;
(2) $100,000,000 for fiscal year 2007; and
(3) $100,000,000 for fiscal year 2008.
(c) Definitions.—For purposes of this section—
(1) the term ‘large unit’ means a unit with a generating capacity of at least three megawatts; and
(2) the term ‘oxygen-fuel systems’ means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units.

Title II—Set America Free
SEC. 1421. SHORT TITLE.
This subtitle may be cited as the “Set America Free Act of 2005” or the “SAFE Act”.
SEC. 1422. PURPOSE.
The purpose of this subtitle is to establish a United States commission to make recommendations for a coordinated and comprehensive North American energy policy that will achieve energy self-sufficiency and provide the necessary tools to secure Three contiguous North American nation area of Canada, Mexico, and the United States.
SEC. 1423. UNITED STATES COMMISSION ON NORTH AMERICAN ENERGY FREEDOM.
(a) Establishment.—There is hereby established the United States Commission on North American Energy Freedom (in this subtitle referred to as the “Commission”). The Federal Advisory Committee Act (5 U.S.C. App.), except sections 3, 7, and 12, does not apply to the Commission.
(b) Membership.—
(1) Appointment.—The Commission shall be composed of 16 members appointed by the President from among individuals described in paragraph (2) who are knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, bioenergy efficiency, and energy conservation. The membership of the Commission shall be balanced by area of expertise to the extent consistent with maintaining the highest level of expertise on the Commission. Members of the Commission may be citizens of Canada, Mexico, or the United States, and the President shall ensure that citizens of all three nations are appointed to the Commission.
(2) Nominations.—The President shall appoint the members of the Commission within 60 days after the effective date of this Act, including individuals nominated as follows:
(A) Four members shall be appointed from among individuals independently determined by the President to be qualified for appointment.
(B) Four members shall be appointed from a list of eight individuals who shall be nominated by the minority leader of the Senate, the Speaker of the House of Representatives.
(C) Four members shall be appointed from a list of eight individuals who shall be nominated by the Speaker of the House of Representatives.
(D) Two members shall be appointed from a list of four individuals who shall be nominated by the majority leader of the Senate, the Speaker of the House of Representatives.
(E) Two members shall be appointed from a list of four individuals who shall be nominated by the minority leader of the House in consultation with the ranking Member of the Committee on Energy and Natural Resources of the Senate.
(F) One member shall be appointed from the list of four individuals who shall be nominated by the Speaker of the House of Representatives.
(G) One member shall be appointed from the list of four individuals who shall be nominated by the Speaker of the House of Representatives.
(H) The chairman of the Commission shall be selected by the President. The chairman of the Commission shall be responsible for—
(A) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and
(B) the use and expenditure of funds available to the Commission.
(4) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner as the original incumbent was appointed.

(c) RESOURCES.—In carrying out its functions under this subchapter, the Commission may accept contributions, donations, grants, and gifts, and enter into contracts, subject to the availability of appropriations for contracting, and employ such staff experts and consultants as may be necessary to carry out the duties of the Commission, as provided by section 3109 of title 5, United States Code; and

(3) shall establish a multidisciplinary science and technical advisory panel of experts in the field of energy to assist the Commission in preparing its report, including ensuring that the scientific and technical information considered by the Commission is based on the best scientific and technical information available.

(d) STAFFING.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary for the Commission to perform its duties. The executive director shall be compensated at a rate not to exceed the rate prescribed for Level IV of the Executive Schedule under chapter 5316 of title 5, United States Code. The chairman shall select staff from among qualified citizens of Canada, Mexico, and the United States of America.

(e) MEETINGS.—

(1) ADMINISTRATION.—All meetings of the Commission shall be open to the public, except that any portion of a meeting may be closed to the public if it concerns matters or information described in section 552(b)(6) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) NOTICE; MINUTES.—PUBLIC AVAILABILITY OF DOCUMENTS.

(a) NOTICE.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(b) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 352 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(3) INITIAL MEETING.—The Commission shall hold its first meeting within 30 days after all 16 members have been appointed.

(f) REPORT.—Within 12 months after the effective date of this Act, the Commission shall submit to the President a final report of its findings and recommendations regarding North American energy freedom.

(g) ADMINISTRATIVE PROCEDURE FOR REPORT AND REVIEW.—Sections 5 and 7 of title 5, United States Code, do not apply to the preparation, review, or submission of the report required by subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated for this purpose out this chapter a total of $10,000,000 for the 2 fiscal-year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 1242. NORTH AMERICAN ENERGY FREEDOM POLICY.

Within 90 days after receiving and considering the report and recommendations of the Commission under section 1243, the President shall submit to Congress a statement of proposals to implement the Commission’s recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—Renewable Fuels

SEC. 1501. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (o) and—

(2) by inserting after subsection (o) the following:

"(o) RENEWABLE FUEL PROGRAM.—

"(1) DEFINITIONS.—In this section:

"(A) CELLULOLIC BIOMASS ETHANOL.—The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic biomass that is available on a renewable or recurring basis, including—

(ii) dedicated energy crops and trees;

(iii) wood and wood residues;

(iv) grasses;

(v) agricultural residues;

(vi) fibers;

(vii) animal wastes and other waste materials; and

(viii) municipal solid waste.

The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

(B) WASTE DERIVED ETHANOL.—The term ‘waste derived ethanol’ means ethanol derived from—

(i) animal wastes, including poultry fats and other waste materials; and

(ii) renewable fuel portion of any such blending component shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Renewable Fuel (in billions of gallons)</th>
</tr>
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<tbody>
<tr>
<td>2006</td>
<td>2.78</td>
</tr>
<tr>
<td>2007</td>
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<tr>
<td>2008</td>
<td>4.7</td>
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</tr>
<tr>
<td>2012</td>
<td>7.4</td>
</tr>
<tr>
<td>2013</td>
<td>7.5</td>
</tr>
</tbody>
</table>

"(2) RENEWABLE FUEL PROGRAM.

"(B) WASTE DERIVED ETHANOL.

"(d) IMPROVEMENTS.—The term ‘improvements’ means any action that will—

(i) reduce energy consumption or enhance energy efficiency or security;

(ii) reduce emissions of sulfur dioxide or nitrogen oxides; and

(iii) increase energy security, job creation, and rural economic development; and

(iii) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

(iv) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

"(ii) MINIMUM QUANTITY DERIVED FROM CELLOLIC BIOMASS.—For calendar year 2013 and each calendar year thereafter, the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during the calendar years 2006 through 2012, including a review of—

(i) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

(ii) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

"(i) THE MINIMUM QUANTITY.—For calendar year 2013 and each calendar year thereafter, the minimum quantity is—

"(A) the quantity of renewable fuel that—

(I) is derived from renewable resources, including—

(i) agricultural; and

(ii) municipal solid waste.

"(B) ADMINISTRATIVE MECHANISMS.—The Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with paragraph (B).

(ii) NONCONTIGUOUS STATE OPTION.—

(i) IN GENERAL.—On the petition of a noncontiguous State or territory, the Administrator may allow the renewable fuel program established under this subsection to apply in the noncontiguous State or territory at the same time or any time after the Administrator promulgates regulations under this subparagraph.

(ii) OTHER ACTIONS.—In carrying out this clause, the Administrator may—

(a) issue or revise regulations under this paragraph;

(b) establish applicable percentages under paragraph (e); and

(c) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State or territory.

"(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

"(II) shall not—

(aa) restrict geographic areas in which renewable fuel may be used; or

(bb) impose any per-gallon obligation for the use of renewable fuel.

"(c) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 2.78 percent for calendar year 2006.

"(B) APPLICABLE VOLUME.—

"(C) RECENT YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Renewable Fuel (in billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>2.78</td>
</tr>
<tr>
<td>2007</td>
<td>4.0</td>
</tr>
<tr>
<td>2008</td>
<td>4.7</td>
</tr>
<tr>
<td>2009</td>
<td>5.4</td>
</tr>
<tr>
<td>2010</td>
<td>6.1</td>
</tr>
<tr>
<td>2011</td>
<td>6.8</td>
</tr>
<tr>
<td>2012</td>
<td>7.4</td>
</tr>
<tr>
<td>2013</td>
<td>7.5</td>
</tr>
</tbody>
</table>
“(iv) Minimum Applicable Volume.—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

(1) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

(2) the quantity of renewable fuel necessary to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

(1) achieves compliance with the renewable fuel requirement under paragraph (2); and

(2) generates additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

(5) seasonal variations in renewable fuel use.—

(A) study.—For each calendar year 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of the renewable fuel necessary to determine whether there are excessive seasonal variations in the use of renewable fuel.

(B) required seasonality variations.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 25 percent or more of the renewable fuel necessary to meet the requirements of paragraph (2) are met.

(C) required elements.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

(1) be applicable to refineries, blenders, and importers, as appropriate; and

(2) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce in any calendar year by small refineries that are exempt under paragraph (9).

(6) Cellulosic biomass ethanol or waste derived ethanol.—For the purpose of paragraph (5), the use of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

(7) credit program.—

(A) in general.—The regulations promulgated under paragraph (2) shall provide—

(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2); and

(ii) for the use of credits by any person that generates credits under subparagraph (A) for the purpose of complying with paragraph (2).

(B) duration of credits.—A credit generated under this paragraph shall be valid to show compliance for the 12 months as of the date of generation.

(C) inability to generate or purchase sufficient credits.—The regulations promulgated under paragraph (2) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

(1) achieves compliance with the renewable fuel requirement under paragraph (2); and

(2) generates additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

(D) study and waiver for initial year of program.—

(A) in general.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct a study assessing whether the renewable fuel requirement under paragraph (2) would likely result in significant adverse impacts on consumers in 2006, on a national, regional, or State basis.

(B) required evaluation.—The study shall evaluate renewable fuel—

(i) supplies and prices;

(ii) blendstock supplies; and

(iii) supply and distribution system capabilities.

(C) recommendations by the Secretary.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

(D) waiver.—

(1) in general.—Not later than 270 days after the date of enactment of this paragraph, the Administrator, after consultation with the Secretary of Energy, shall determine to what extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) to any reducing the quantity of renewable fuel required under paragraph (2) in calendar year 2006.

(2) no effect on waiver authority.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

(E) small refineries.—

(A) temporary exemption.—

(i) in general.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

(ii) extending exemption.—The Administrator may extend the exemption provided under subparagraph (A) by up to 2 additional years in cases where he determines that it is in the public interest to do so.

(B) petitions based on disproportionate economic hardship.—

(i) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.

(III) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.

(III) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.

(III) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.

(III) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.

(III) extension of exemption.—In the case of a small refinery that the Secretary of Energy determines under subparagraph (A) is subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

(ii) petitions for consideration.—A small refinery may petition the Administrator, in writing, for an extension of the exemption under subparagraph (A) for any reason of disproportionate economic hardship.
(5) Beginning in the calendar year following the date of notification.

“(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraphs (2) and (3) of subparagraph (A) if the Administrator determines that the small refinery waives the exemption under subparagraph (A).

“(E) ETHANOL MARKET CONCENTRATION ANALYSIS.—

“(1) ANALYSIS.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) For the purpose of scoring under clause (i) the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).”.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1),

(A) in the first sentence, by striking “or (n),” each place it appears and inserting “(n),”’;

and

(B) in the second sentence, by striking “or (m)” and inserting “(m),”’;

and

(2) in the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n),”’.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCLUSION FROM ETHANOL WAIVER.—

“(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (2) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (2), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, of ferred for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

“(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

“(C) EFFECT.—

“(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

(I) the first day of the first high ozone season in the area for the year that begins after the date of receipt of the notification; or

(ii) 1 year after the date of receipt of the notification.

“(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

“(i) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under paragraph (A), the Administrator determines, on the Administrator’s own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

“(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

“(bb) may extend the effective date of such regulations under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(ii) DEADLINE FOR ACTION ON PETITIONS.—

“The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.’

“(B) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall submit to the Secretary of Energy a report that specifies, with respect to the States, the information specified in clause (i).”.

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) by striking “November 1, 2004,” and inserting “November 1, 2006,”

(2) by striking “November 1, 2005,” and inserting “November 1, 2006,”

(3) by redesignating paragraph (2) as paragraph (3),

(4) by redesignating paragraph (3) as paragraph (4),

and

(5) by adding at the end the following:

“(M) by redesignating paragraph (5) as paragraph (6); and

(6) by adding at the end the following:

“(N) by redesignating paragraph (6) as paragraph (7); and

(7) by redesignating paragraph (7) as paragraph (8).”.

SEC. 1580. FINDINGS.

Congress finds that—

“(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as “MTBE”) has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent.

“(2) Public Law 101–549 (commonly known as the “Clean Air Act Amendments of 1990”) (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight; and

“(3) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace.

SEC. 1585. CLAIMS FILED AFTER ENACTMENT.

Claims and legal actions filed after the date of enactment of this Act related to allegations in paragraphs (1) or (2) of subsection (a) with respect to gasoline produced for use in that State, or the regulatory requirements for reformulated gasoline produced or distributed by the refiner or importer under clause (ii) of subparagraph (B) shall not exceed 1 year.

SEC. 1586. 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)”’;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(B) in paragraph (3)(A), by striking clause (v) and inserting—

“(v) the quantity of reformulated gasoline produced that is in excess of the average annual

“(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i) and inserting—

“(I) by redesigning clauses (i) and (ii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (B) —

(I) by striking clause (ii); and

(ii) by redesigning clause (iii) as clause (ii).”.

(b) APPLICABILITY.—The amendments made by paragraph (1) apply—

(I) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7545(b)), beginning on the date of enactment of this Act; and

(II) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(c) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking “Within 1 year after the enactment of the Clean Air Act Amendments of 1990,” and inserting the following—

“(ii) DEFINITION OF PADD.—In this subparagraph the term ‘PADD’ means a Petroleum Administration for Defense District.

“(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refiner or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced in that State) standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer) as compared to the standards applicable to specific refiners or importers.

“(i) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under subparagraph (B) apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002.

“(ii) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subparagraph (B) shall be subject to the same requirements and other regulations in effect for emissions of toxic air pollutants in the same manner as provided in paragraph (7).”.

SEC. 1587. REGIONAL PROTECTION OF TOXIC EMISSION BASELINES.

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each succeeding year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

“(a) the quantity of reformulated gasoline produced that is in excess of the average annual
quantity of reformulated gasoline produced in 2001 and 2002; and

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 2001 and 2000; and

(N) OPT-IN AREAS.—For purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Energy Policy Act of 2005.

(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 1 year before the date of the enactment of this paragraph, the Administrator shall publish the analysis in final form.

(2) EMISSIONS MODEL.—For the purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall conduct a study, and report to Congress the results of the study, on the effects of ethanol content in gasoline on permeation, the process by which fuel molecules migrate through the elastomeric materials (rubber and plastic parts) that make up the fuel and fuel vapor systems of a motor vehicle.

(3) PERMEATION EFFECTS STUDY.—The Administrator shall conduct a study to assess the effects of the use of gasoline with ethanol content in a motor vehicle and the fleet of motor vehicles, due to permeation.

(C) ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.—Section 211(h)(3) of the Clean Air Act (42 U.S.C. 7545(h)(3)) is amended—

(1) (i) in paragraph (1), by striking "(1) Subparagraph (B) shall apply to reformulated gasoline produced or distributed at a refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed at a refiner or importer"; and

(ii) in subparagraph (B), by striking "(i) the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels that achieve and maintain greater overall reductions in emissions of toxic air pollutants than the reductions that would be achieved under section 211(k)(1)(B) of the Clean Air Act as amended by this clause, then sections 211(k)(1)(B)(i) through 211(k)(1)(B)(v) shall be null and void and regulations promulgated thereunder shall be rescinded and have no further effect.

(c) CONSIDERATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate the regulations under part D of title 49 of code of Federal Regulations, to consolidate the requirements applicable to VOC-Control Regions and a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 2001 and 2002, and the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

(1) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

(2) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 18, 2007, and in each calendar year thereafter.

Not later than 180 days after July 1, 2007, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this paragraph, and as authorized under section 122(1) of the Clean Air Act. If the Administrator promulgates by such date, final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels that achieve and maintain overall reductions in emissions of toxic air pollutants in a State; and

(b)1. promulgate the regulations under part D of title 49 of Code of Federal Regulations, to consolidate the requirements applicable to VOC-Control Regions and a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline produced or distributed at a refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed at a refiner or importer.
shall not exceed 1 year. 

(bb) may renew the extension under item (aa) for up to 2 additional periods, each of which shall not exceed 1 year. 

(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under (I) not later than 180 days after the date of receipt of the petition. 

SEC. 1508. DATA COLLECTION. 
Section 265 of the Department of Energy Organization Act (42 U.S.C. 713) is amended by adding at the end the following: 

(3) SECRETARY. 

If, after receipt of an application, the Administrator determines, on the Administrator’s own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation— 

(A) shall extend the commencement date with respect to the State under clause (ii) for not more than 1 year; and 

(bb) may renew the extension under item (aa) for up to 2 additional periods, each of which shall not exceed 1 year. 

(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under (I) not later than 180 days after the date of receipt of the petition. 

SEC. 1508. DATA COLLECTION. 
Section 265 of the Department of Energy Organization Act (42 U.S.C. 713) is amended by adding at the end the following: 

(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation’s renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States conducted on a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following: 

(A) The quantity of renewable fuels produced. 

(B) The quantity of renewable fuels blended. 

(C) The quantity of renewable fuels imported. 

(D) The quantity of renewable fuels demanded. 

(E) Market price data. 

(F) Such other analyses or evaluations as the Administrator finds are necessary to achieve the purposes of this subsection. 

(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection. 

(3) This subsection does not affect the authority of the Administrator to collect data under section 221 of the Federal Energy Regulatory Administration Act of 1974 (15 U.S.C. 791a). 

SEC. 1509. FUEL SYSTEM REQUIREMENTS HARMOMIZATION STUDY. 
(a) STUDY.— 

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including— 

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and 

(B) other requirements that vary from State to State, region to region, or locality to locality. 

(2) REQUIRED ELEMENTS.—The study shall 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 (including the protection of children, pregnant women, minority, oxygenated fuel, and diesel fuel; and 

(iii) domestic refineries; and 

(ii) the fuel distribution system; and 

(A) the limited availability of land for waste disposal; 

(B) the availability of sufficient quantities of cellulosic biomass; or 

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility. 

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years. 

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary. 

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan. 

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee. 

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. An such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan. 

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 authorized to be appropriated such sums as are necessary to carry out this section. 

(2) RFG STATE.—The term ‘RFG State’ means a State in which is located 1 or more covered areas (as defined in section 211(h)(10)(D)). 

(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.
“(b) CELLULOCIC BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

(1) IN GENERAL.—Funds may be provided for the carry out of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) of loan guarantees issued under title XIV of the Energy Policy Act to carry out commercial demonstration projects for cellulosic biomass and sucrose-derived ethanol.

(2) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall issue loan guarantees under this section to carry out not more than 4 projects to commercially demonstrate the feasibility and viability of producing cellulose ethanol from a coal-derived ethanol, including at least 1 project that uses cereal straw as a feedstock and 1 project that uses municipal solid waste as a feedstock.

(B) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(3) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(4) LIMITATIONS.

(E) there is a reasonable assurance of repayment by the borrower; and

(5) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(6) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(7) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(8) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2006 through 2010.

(e) CELLULOCIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $250,000,000 for fiscal year 2006; and

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $400,000,000 for fiscal year 2007.

SEC. 1512. CONVERSION ASSISTANCE FOR CELLULOCIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

(1) CONVERSION ASSISTANCE FOR CELLULOCIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.—

(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol, waste-derived ethanol, and approved renewable fuels in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of ethanol or approved renewable fuels.

(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

(A) $100,000,000 for fiscal year 2006.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

(A) $250,000,000 for fiscal year 2006.

(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility is located in the United States; and

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

(A) $400,000,000 for fiscal year 2006.

(4) DEFINITIONS.—For the purposes of this subsection:

(6) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action under subsection (b) arising from the blending of compliant reformulated gasoline by the retailers.
"(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to achieve potential or actual environmental benefits due to blending authorized by this subsection."

SEC. 1514. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224, 7 U.S.C. 8101 note), establish a program, to be known as the ‘‘Advanced Biofuel Technologies Program’’, to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as animal wastes, including poultry fats and lipids, and agricultural byproducts) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 9007.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to be carried out this section $110,000,000 for each of fiscal years 2005 through 2008.

SEC. 1515. WASTE-DERIVED ETHANOL AND BIODIESEL

Section 312(j)(1) of the Energy Policy Act of 1992 (42 U.S.C. 6961(a)) is amended—

(1) by striking ‘‘biodeisel’’ means and inserting the following: ‘‘biodeisel’’—

(A) means’’; and

(2) paragraph (A) (as designated by paragraph (1)) by striking ‘‘and’’ at the end and inserting the following:

(B) includes biodiesel derived from—

(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

(ii) municipal solid waste sludges and sludges derived from wastewater treatment and the waste of wastewater treatment; and

(C) SEC. 1516. SUGAR ETHANOL LOAN GUARANTEE PROGRAM

(a) In General.—Funds may be provided for the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of loan guarantees issued under title XIV to carry out commercial demonstrator projects for ethanol derived from sugarcane, bagasse, and other sugarcane byproducts.

(b) DEMONSTRATION PROJECTS.—The Secretary may issue loan guarantees under this section to projects to demonstrate commercially the feasibility and viability of producing ethanol using sugarcane, sugarcane bagasse, and other sugarcane byproducts.

(c) REQUIREMENTS.—An applicant for a loan guarantee under this section may provide assurances, satisfactory to the Secretary, that—

(1) the project design has been validated through the operation of a continuous process facility;

(2) the project has been subject to a full technical review;

(3) the project, with the loan guarantee, is economically viable; and

(4) there is a reasonable assurance of repayment of the guaranteed loan.

(d) LIMITATIONS.—

(1) MAXIMUM GUARANTEE.—Except as provided in paragraph (2), a loan guarantee under this section—

(A) may be issued for up to 80 percent of the estimated cost of a project, but

(B) shall not exceed $50,000,000 for any project.

(2) ADDITIONAL GUARANTEES.—

(A) In general.—The Administrator may issue additional loan guarantees for a project to cover—

(i) up to 80 percent of the excess of actual project costs; but

(ii) not to exceed 15 percent of the amount of the original loan guarantee.

(B) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

Subtitle B—Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This title may be cited as the ‘‘Underground Storage Tank Compliance Act’’.

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

‘‘(f) TRUST FUND DISTRIBUTION.—

(1) IN GENERAL.—

(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9004(h)(4)(A) for each fiscal year for use in paying the reasonable costs incurred under a cooperative agreement with any State for—

(i) corrective actions taken by the State under section 903(h)(7)(A); or

(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1); or

(iii) enforcement, by a State or a local government, of State and local regulations pertaining to underground storage tanks regulated under this subtitle.

(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of a regulation promulgated by the Administrator under this subtitle.

(C) PROHIBITED USE.—Funds provided to a State by the Administrator under subparagraph (A) shall be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

(2) ALLOCATION.

(A) PROCESS.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

(B) DIVISION OF STATE FUNDS.—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from a State fund or State assurance program for purposes other than the performance of the underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this section.

(3) DISTRIBUTIONS TO STATE AGENCIES.—Disbursements from the Trust Fund under this subsection shall be made directly to a State agency that—

(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

(B) enforces a State program approved under this section.

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by inserting the following new paragraph at the end thereof:

‘‘(7) IN GENERAL.—In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator’s ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by enlisting consideration under this subparagraph.

(c) MISREPRESENTATION.—If an owner or operator requests consideration under this subparagraph who falsely represents their financial situation under part 280 of title 40, Code of Federal Regulations, the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenue.

(d) INFORMATION.—An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

(e) ALTERNATIVE PAYMENT METHODS.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the costs in a lump sum payment.

(f) MISREPRESENTATION.—If an owner or operator provides false information or otherwise misrepresents their financial situation under part 280 of title 40, Code of Federal Regulations, the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the
provisions of subparagraph (A) without consideration of the factors in subparagraph (B)."

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) INSPECTION REQUIREMENTS.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

"(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subsection, as appropriate, shall conduct on-site inspections of all underground storage tanks described in paragraph (1) at least once every 3 years to determine compliance with this rule and the regulations under this subtitle (including under a State program approved under section 9004)."

(b) STUDY OF ALTERNATIVE INSPECTION PROGRAMS.—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) IN GENERAL.—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991l) is amended to read as follows:

"SEC. 9010. OPERATOR TRAINING.

"(a) Guidelines.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

"(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems; and

"(B) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

"(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

"(A) State training programs in existence as of the date of publication of the guidelines; and

"(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of this Act.

"(c) INSPECTION REQUIREMENTS.—The standards for underground storage tank systems shall require each State that receives funding under this subtitle that in cooperation with the Administrator, to—

"(A) develop and implement a program to ensure that—

"(i) all underground storage tanks described in paragraph (1) are inspected by a State, in accordance with a grant or cooperative agreement entered into by the Administrator and the State under paragraph (2); and

"(B) periodic inspections of each underground storage tank system shall be conducted by a State, in accordance with a grant or cooperative agreement entered into by the Administrator and the State under paragraph (2).

"(d) FUNDING.—Funds made available under section 9014(b)(2) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle.

"(2) By State, in accordance with a grant or cooperative agreement with the Administrator, a State must develop, implement, and maintain a program to ensure that each underground storage tank system is inspected at least once every 3 years to determine compliance with this rule and the regulations under this subtitle (including under a State program approved under section 9004)."

(b) EFFECT OF A petrochemical plant to comply with the requirement described in paragraph (2) shall take into account—

"(A) the nature of the businesses in which the tank operators are engaged;

"(B) the substantial differences in the scope and length of training needed for the different classes of personnel described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(C) such other factors as the Administrator determines to be necessary to carry out this section.

"(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

"(A) be consistent with subsection (a);

"(B) be developed in cooperation with tank owners and tank operators;

"(C) take into consideration training programs described in paragraph (1) and the operator training requirements of subsection (a); and

"(D) be appropriately communicated to tank owners and operators.

"(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements requirements under paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $200,000, to be used to carry out the requirements described in paragraph (B).

"(C) TRAINING.—All persons that are subject to the operator training requirements of subsection (a) shall—

"(1) meet the training requirements developed under subsection (b); and

"(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibility is determined to be out of compliance with—

"(A) a requirement or standard promulgated by the Administrator under section 9003; or

"(B) a requirement or standard of a State program approved under section 9004.

"(b) STATE PROGRAM REQUIREMENTS.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "and", and by adding the following new paragraph at the end thereof:

"(9) State-specific training requirements as required by section 9010 shall be—

"(A) in accordance with paragraph (2), and in cooperation with States, a record of underground storage tanks regulated under this subtitle.

"(C) OPERATOR TRAINING.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

"(1) GOVERNMENT-OWNED TANKS.—(A) Not later than 2 years after the date of enactment of this Act, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

"(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

"(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

"(B) An underground storage tank described in this subparagraph is an underground storage tank that—

"(i) is regulated under this subtitle; and

"(ii) is owned or operated by the Federal, State, or local government.

"(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

"(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

"(D) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.

"(e) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

"(2) PUBLIC RECORD.—(A) In general.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

"(B) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

"(1) the number, sources, and causes of underground storage tank releases; and

"(2) the record of compliance by underground storage tanks in the State with—
"(i) this subtitle; or

"(ii) an applicable State program approved under section 9004; and

"(C) data on the number of underground storage tanks at facilities in the State.

"(d) INCENTIVE FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended by adding at the end the following:

"(e) INCENTIVE FOR PERFORMANCE.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

"(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

"(2) Any other factor the Administrator considers appropriate.

"(f) RULE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 1527. DELIVERY PROHIBITION.

(a) In GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"Sec. 9012. Delivery prohibition.

"(a) PROHIBITION OF DELIVERY OR DEPOSIT.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit, or cause a regulated substance to enter into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency as ineligible for such delivery, deposit, or acceptance.

"(b) GUIDANCE.—Within 1 year after the date of enactment of this section, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

"(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

"(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance; and

"(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

"(D) the process for reclassifying facilities as ineligible for delivery, deposit, or acceptance of a regulated substance;

"(E) the process for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; and

"(F) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (A).

"(3) COMPLIANCE.—States that receive funding under this subtitle shall, at a minimum, comply with the processes and procedures published under paragraph (2).

"(4) CONSIDERATION.—

"(A) RURAL AND REMOTE AREAS.—Subject to subparagraph (B), the Administrator may consider treating an underground storage tank as ineligible for delivery, deposit or acceptance of a regulated substance if such treatment would optimize the availability of, or access to, fuel in any rural and remote areas unless an urgent threat to public health, as determined by the Administrator, exists.

"(B) EFFECT ON STATE AUTHORITY.—Nothing in this section shall affect or preempt the authority of a State to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank.

"(C) DEFENSE TO VIOLATION.—A person shall not be in violation of this paragraph if the person has not been provided with notice pursuant to subsection (a)(2)(D) of the ineligibility of a facility for delivery, deposit, or acceptance of a regulated substance to an underground storage tank of the Administrator or a State, as appropriate, under this section.

"(b) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991d(2)) is amended as follows:

"(1) By adding the following new subparagraph after paragraph (1):

"(E) the delivery prohibition requirement established by section 9012; and

"(2) By adding the following new sentence at the end thereof:

"Any person who delivers a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall be subject to such criminal and civil penalty for each day of such violation.

"(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

"Sec. 9007. Federal facilities;

"(A) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government, or any agency or instrumentality thereof, may consider not treating an underground storage tank equipment failures in the State.

"(B) Description of the failure.

"(C) The Secretary, in consultation with the States, interstate agencies, and local governments, shall develop and implement a strategy to prevent the occurrence of such failures.

"(D) Implementation of the strategy.

"(E) A report to Congress.

"(F) Authorization of appropriations.

"(G) Authorization to appropriate funds.

"(H) Authorization to appropriate.

"(ii) any such injunctive relief.

"(i) this subtitle; or

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 9012. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end thereof:

"Sec. 9012. Tanks on tribal lands.

"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(B) Giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from any underground storage tanks located wholly within the boundaries—

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 9012. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end thereof:

"Sec. 9012. Tanks on tribal lands.

"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

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"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

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"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 9012. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end thereof:

"Sec. 9012. Tanks on tribal lands.

"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.

"(k) USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.—The table of contents for such subtitle I is amended by adding the following sentence:

"Sec. 9011. Use of funds for release prevention and compliance.

SEC. 9012. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end thereof:

"Sec. 9012. Tanks on tribal lands.

"(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy.

"(i) any such injunctive relief.

"(ii) this subtitle; or

"(iii) any such injunctive relief.

"(j) Program approved under section 9004.
(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding the following new item at the end thereof:

"(A) Tank and piping secondary containment.-(A) Each new underground storage tank, or piping connected to such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.

(b) INSTALLER CERTIFICATION.—The Administrator shall ensure that each State that receives funding under this subsection provide that all underground storage tanks installed after the effective date of this subsection shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water supply well.

(c) SAVINGS CLAUSE.—Nothing in subparagraph (A) alters or affects the liability of any owner or operator of an underground storage tank because of their status as Indians.

(d) EFFECTIVE DATE.—This subsection shall take effect 18 months after the date of enactment of this subsection.

(e) PROMULGATION OF REGULATIONS OR GUIDELINES.—The Administrator shall promulgate regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms "repair" and "replacement" for the purposes of section 9001(u)(1) of the Solid Waste Disposal Act.

(f) PENALTIES.—Section 9006(d)(2) of such Act (42 U.S.C. 6991(d)(2)) is amended as follows:

(1) By striking "or" at the end of subparagraph (B).

(2) By inserting "or" at the end of subparagraph (C).

(3) By adding the following new subparagraph after subparagraph (C):

"(D) The requirements established in section 9003(b).

(g) AUTHORIZATION OF APPROPRIATIONS.—

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following amounts:

"(1) The amounts set forth in section 9003(h), 9005(c), 9001 and 9012 for each of fiscal years 2005 through 2009.

"(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986:

"(A) to carry out section 9003(h) (except section 9003(h)(6)) $200,000,000 for each of fiscal years 2005 through 2009.

"(B) to carry out section 9003(h)(12), $200,000,000 for each of fiscal years 2005 through 2009.

"(C) to carry out sections 9003(i), 9004(f), and 9005(c) $100,000,000 for each of fiscal years 2005 through 2009.

"(D) to carry out sections 9010, 9011, 9012, and 9013 $55,000,000 for each of fiscal years 2005 through 2009.

"(E) for purposes of section 9508(c)(1) of the Internal Revenue Code of 1986:

"(1) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in paragraph (1), by striking "(2) (B)" and inserting "(1); (2) (A)" and "80,000,000" and "60,000,000".

(B) in subsection (a), by striking "(2) (A)" and inserting "(1) (A)".

(C) in subsection (b), by striking "(2)(B)" and inserting "(1)(B)

(D) in subsection (c), by striking "(2)(B)" and inserting "(1)(B)".

(E) in subsection (d), by striking "(2)(B)" and inserting "(1)(B)".

(F) in subsection (e), by striking "(2)(B)" and inserting "(1)(B)".

(G) in subsection (f), by striking "(2)(B)" and inserting "(1)(B)".

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"(2) There are authorized to be appropriated:

"(A) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6993) is amended as follows:

"(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.—A person that manufactures or installs an underground storage tank system or piping that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section, shall not include under-dispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water supply well.

"(B) In the case of a new underground storage tank or piping for an underground storage tank system or an underground storage tank system installed after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water supply well. For the purposes of section 9003(h), (1) (A) and (B), (3) (A), and (11) by striking "Leaking Underground Storage Tank Trust Fund" each place it appears and inserting "Leaking Underground Storage Tank Trust Fund Trust Fund established by section 9508 of the Internal Revenue Code of 1986.

"(B) INCLUSIONS.—The term ‘Indian tribe’ includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and any other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(C) All in paragraph (2) as redesignated by paragraph (2) of this subsection the following:

"INDIAN TRIBE.

"(A) IN GENERAL.—The term ‘Indian tribe’ means any Indian Tribe or band or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) INCLUSIONS.—The term ‘Indian tribe’ includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and any other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

"(1) Section 9003(b) (42 U.S.C. 6991b) is amended—

(A) in paragraph (1), by striking "(2) (B)" and inserting "(1) (B)"; and

(B) in subsection (a), by striking "(2) (A)" and inserting "(1) (A) and (B)".

"(C) NOT A SAFE HARBOR.

"(A) Each new underground storage tank or piping for an underground storage tank system or an underground storage tank system installed after the effective date of this subsection.

"(B) In the case of a new underground storage tank or piping for an underground storage tank system or an underground storage tank system installed after the effective date of this subsection.

"(C) By adding the following new subsection at the end of section 9001:

"(D) INCLUSIONS.—The term ‘Indian tribe’ includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and any other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

"(B) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

"(1) Section 9003(b) (42 U.S.C. 6991b) is amended—

(A) in paragraph (1), by striking "(2) (B)" and inserting "(1) (B)"; and

(B) in subsection (a), by striking "(2) (A)" and inserting "(1) (A) and (B)".

"(C) NOT A SAFE HARBOR.

"(A) Each new underground storage tank or piping for an underground storage tank system or an underground storage tank system installed after the effective date of this subsection.

"(B) In the case of a new underground storage tank or piping for an underground storage tank system or an underground storage tank system installed after the effective date of this subsection.

"(C) By adding the following new subsection at the end of section 9001:

"(D) INCLUSIONS.—The term ‘Indian tribe’ includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and any other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.
Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting ‘‘(ii)’’ after ‘‘(C)’’ and by adding the following new clauses at the end thereof:

‘‘(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Act, if in the judgment of the Administrator, in consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

(ii) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural or man-made event, and unusual fuel and fuel additive supply circumstances are the result of a man-made event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the fuel or fuel additive to such State or region; and

(iii) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances; and

(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines the waiver period is necessary for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality.

(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator (but which shall be for the shortest practicable period), after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

(IV) the waiver applies to all persons in the motor fuel distribution system; and

(V) the Administrator has given public notice to all motor fuel distribution system operators and local and State regulators, in the State or region to be covered by the waiver.

The term ‘‘motor fuel distribution system’’ as used in this clause shall be defined by the Administrator through rulemaking.

(iv) Within 180 days of the date of enactment of this clause, the Administrator shall promulgate regulations to implement clauses (ii) and (iii).

(v) Nothing in this subparagraph shall—

(I) affect the otherwise application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.

(b) LIMIT ON NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is further amended by adding at the end the following:

‘‘(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel or fuel additive if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the states and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after enactment.

(III) The Administrator shall remove a fuel from the list published under subsection (I) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation or control strategy and the Administrator shall not reduce the total number of fuels authorized under the list published under subsection (II).

(IV) Subclause (I) shall not limit the Administrator’s authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel:

(aa) completely replaces a fuel on the list published under subclause (II) as of September 1, 2004.

(bb) does not increase the total number of fuels on the list published under subclause (II) at the time of the Administrator’s consideration of a control or prohibition respecting a new fuel that is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator determines that the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator’s judgment, such control or prohibition respecting such new fuel, supply or distribution interruptions or have a significant adverse impact on fuel productivity in the affected area or contiguous areas.

(3) The Administrator shall have no authority under this paragraph, when considering any particular State’s implementation plan or a revision to that State’s implementation plan, to approve a control or prohibition respecting a new fuel if the Secretary of Energy issues a finding, at any time, that the Secretary of Energy, determines that the elimination of a fuel from the list published under subclause (II) as of September 1, 2004, will result in a decrease in the total number of fuels on the list published under subclause (II).

(4) Nothing in this subparagraph shall—

(I) affect the otherwise application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.

(5) The term ‘‘boutique fuel’’ means a fuel or fuel additive which is no longer sold in the United States.

(6) REPORT TO CONGRESS.—In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated jointly to the Administrator and the Secretary $500,000 for the completion of the study required under this subsection.

(8) DEFINITIONS.—In this section:

(I) The term ‘‘Administrator’’ means the Administrator of the Environmental Protection Agency.

(II) The term ‘‘boutique fuel’’ means a fuel or fuel additive which is no longer sold in the United States.

(III) The term ‘‘Secretary’’ means the Secretary of Energy.

(IV) The term ‘‘Secretary’’ means the Secretary of Energy.

(V) The term ‘‘Secretary’’ means the Secretary of Energy.

(601) GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEVELOPMENT.

SEC. 1601. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEVELOPMENT.

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13341 et seq.) is amended by adding at the end the following:

‘‘SEC. 1610. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEVELOPMENT.

(a) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ‘‘Advisory Committee’’ means the Intergovernmental Technology Advisory Committee established under subsection (f)(1).
(2) CARBON SEQUESTRATION.—The term ‘carbon sequestration’ means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

(3) COMMITTEE.—The term ‘Committee’ means the Committee on Climate Change Technology established under subsection (b)(1).

(a) ADEQUACY OF TECHNOLOGIES.—After the date of enactment of this section, the President shall establish a Committee on Climate Change Technology to—

(A) identify, based on the report submitted under subsection (f)(3), any barriers to, and commercial risks associated with, the deployment of greenhouse gas intensity reducing technologies and practices under this section;

(B) include a plan for carrying out demonstration projects.

(b) GRANT.—The Secretary shall—

(A) at the time of submission of the report under paragraph (a), also make the report available to the public; and

(B) update the report every 3 years, or more frequently as the Committee determines to be necessary.

(c) PROVISIONS FOR CREATING, MONITORING, AND ANALYZING GREENHOUSE GAS INTENSITY.—The Secretary, in collaboration with the Committee and the National Institute of Standards and Technology, and after public notice and opportunity for comment, shall develop standards and best practices for calculating, monitoring, and analyzing greenhouse gas intensity.

(d) DEMONSTRATION PROJECTS.—(1) IN GENERAL.—The Secretary, subject to the availability of appropriations, shall develop demonstration projects.

(A) increase the reduction of the greenhouse gas intensity to levels below that which would be achieved by technologies being used in the United States as of the date of enactment of this section;

(B) maximize the potential return on Federal investment;

(C) demonstrate distinct roles in public-private partnerships;

(D) produce a large-scale reduction of greenhouse gas intensity if commercialization occurred; and

(E) support a diversified portfolio to mitigate the uncertainty associated with a single technology.

(2) COST SHARING.—In supporting a demonstration project under this subsection, the Secretary shall require cost-sharing in accordance with section 988 of the Energy Policy Act of 2005.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(e) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—In carrying out greenhouse gas intensity reduction research and technology deployment activities under this subtitle, the Secretary may enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)."

Subtitle B—Climate Change Technology Deployment in Developing Countries

SEC. 1611. CLIMATE CHANGE TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

The Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 101 Stat. 2521) is amended by adding at the end the following:

"PART C—TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

SEC. 731. DEFINITIONS.

In this part:

(1) CARBON SEQUESTRATION.—The term ‘carbon sequestration’ means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

(2) REQUIREMENTS.—In developing the recommendations under this section, the Committee shall consider in the aggregate—

(A) the cost-effectiveness of the technology;
SEC. 732. REDUCTION OF GREENHOUSE GAS IN-

TENSITY.

(a) LEAD AGENCY.—

(1) IN GENERAL.—The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

(b) REPORTS.—

(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary of State shall submit to the appropriate authorizing Committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 most significant greenhouse gas emitters, including for each country—

(i) an estimate of the quantity and types of energy used;

(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

(iii) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

(iv) a description of any obstacles to the reduction of greenhouse gas intensity; and

(v) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

(B) UPDATE.—Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing Committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

(c) USE.—

(1) INITIAL REPORT.—The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to greenhouse gas intensity, any information provided under subsection (i) and (ii) of that subparagraph.

(2) ANNUAL REPORTS.—The Secretary of State shall use the annual reports prepared under paragraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

(b) Projects.—The Secretary of State, in coordination with the United States Agency for International Development, shall (directly or through agreements with the World Bank, the International Monetary Fund, the Overseas Private Investment Corporation, and other development institutions) provide assistance to developing countries specifically for projects to reduce greenhouse gas intensity, including projects to—

(1) leverage, through bilateral agreements, funds for reducing greenhouse gas intensity;

(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

(3) expedite the deployment of technology to reduce greenhouse gas intensity.

(c) Focus.—In providing assistance under subsection (b), the Secretary of State shall focus on—

(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

(2) increasing capacity, infrastructure, and training.

SEC. 733. TECHNOLOGY INVENTORY FOR DEVELOPING COUNTRIES.

(a) IN GENERAL.—The Secretary of Energy, in coordination with the Department of State and the Secretary of Commerce, shall conduct an inventory of greenhouse gas intensity reducing technologies that are developed, or under development, in the United States, to identify technologies that are suitable for transfer to, deployment in, and commercialization in the developing countries identified in the report submitted under subsection (b).

(b) REPORT.—Not later than 180 days after the completion of the inventory under subsection (a), the Secretary of State and the Secretary of Energy shall jointly submit to Congress a report that—

(1) includes the results of the completed inventory;

(2) identifies obstacles to the transfer, deployment, and commercialization of the inventoried technologies;

(3) includes actions from previous Federal reports related to the inventoried technologies; and

(4) includes an analysis of market forces related to the inventoried technologies.

SEC. 734. TRADE-RELATED BARRIERS TO EXPORT OF GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the United States Trade Representative shall (as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements)—

(1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and

(2) negotiate with foreign countries for the removal of those barriers.

(b) ANNUAL REPORT.—Not later than 1 year after the date on which a report is submitted under subsection (a)(1) and annually thereafter, the United States Trade Representative shall submit to Congress a report that describes any progress made with respect to removing the barriers identified by the United States Trade Representative under subsection (a)(1).

SEC. 735. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY EXPORT INITIATIVES.

(a) IN GENERAL.—There is established an interagency working group to carry out a Greenhouse Gas Intensity Reducing Technology Export Initiative to—

(1) promote the export of greenhouse gas intensity reducing technologies and practices from the United States;

(2) identify developing countries that should be designated as priority countries for the purpose of exporting greenhouse gas intensity reducing technologies and practices, based on the report submitted under section 732(a)(2)(A);

(3) identify potential barriers to adoption of exported greenhouse gas intensity reducing technologies and practices based on the reports submitted under section 734; and

(4) identify previous efforts to export energy technologies to learn best practices.

(b) COMPOSITION.—The working group shall be composed of—

(1) the Secretary of State, who shall act as the head of the working group;

(2) the Administrator of the United States Agency for International Development;

(3) the United States Trade Representative; and

(4) the designee of the Secretary of Energy; the designee of the Secretary of Commerce; and the designee of the Administrator of the Environmental Protection Agency.

(c) IMPLEMENTATION.—The United States Trade Representative, in coordination with the Secretary of State, shall—

(1) submit a report to Congress not later than 1 year after the date of enactment of this Part that includes a description of the best practices identified through efforts by the Federal Government (including each of the agencies represented on the interagency working group) to promote the export of greenhouse gas intensity reducing technologies and practices from the United States; and

(2) submit to the appropriate authorizing and appropriating Committees of Congress a report that describes the results of the performance reviews and evaluates progress in promoting the export of greenhouse gas intensity reducing technologies and practices from the United States, including any recommendations for increasing the export of the technologies and practices.

SEC. 736. TECHNOLOGY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of State, in coordination with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall promote the adoption of technologies and practices that reduce greenhouse gas intensity in developing countries in accordance with this section.

(b) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary and the Administrator shall plan, coordinate, and carry out assistance projects through the Department of State, the United States Agency for International Development, or any other agency or department of the United States, including any recommendations for increasing the export of the technologies and practices.

(2) ELIGIBILITY.—A country shall be eligible for assistance under this subsection if the Secretary and the Administrator determine that the country shall have demonstrated a commitment to—

(A) just governance, including—

(i) promoting the rule of law;

(ii) respecting human and civil rights;

(iii) protecting private property rights; and

(iv) combating corruption; and

(B) economic freedom, including economic policies that—

(i) encourage citizens and firms to participate in global trade and international capital markets;

(ii) promote private sector growth and the sustainable management of natural resources; and

(iii) strengthen market forces in the economy.

(3) SELECTION.—In determining which eligible countries to provide assistance to under paragraph (1), the Secretary and the Administrator shall consider—

(A) the opportunity to reduce greenhouse gas intensity in the eligible country; and

(B) the opportunity to generate economic growth in the eligible country.

(4) TYPES OF PROJECTS.—Demonstration projects under this section may include—

(A) coal gasification, coal liquefaction, and clean coal projects;

(B) carbon sequestration projects;

(C) cogeneration technology initiatives;

(D) renewable projects; and

(E) lower emissions transportation projects.

SEC. 737. FELLOWSHIP AND EXCHANGE PROGRAMS.

The Secretary of State, in coordination with the Secretary of Energy and the Office of the United States Trade Representative, in coordination with the Department of Commerce, and the Administrator of the Environmental Protection Agency, shall carry out fellowship and exchange programs under which officials from developing countries visiting the United States to acquire expertise and knowledge of best practices to reduce greenhouse gas intensity in their countries.

SEC. 738. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this part.
SEC. 1702. TERMS AND CONDITIONS.

(a) In general.—The Secretary may make guarantees under this section only for projects that

(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) Categories.—Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial or transportation applications.

(4) Advanced nuclear energy facilities.

(5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.

(9) Pollution control equipment.

(10) Refineries, meaning facilities at which crude oil is refined into gasoline.

(c) Gasi fication Projects.—The Secretary may make guarantees for the following gasification projects:

(1) Integrated gasification combined cycle projects—Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantees); and

(iv) that use or are capable of using byproduct gases generated by the Secretary and the relevant State public utility commission; and

(2) Recovery.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(f) Fees.—
The recipient of such award, for a loan guar-antee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

SEC. 1801. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section “petroleum” means crude oil, motor gasoline, jet fuel, distillates, and other petroleum products;

(b) STUDY.—The Secretary shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) REPORT.—The Secretary shall submit the report to Congress not later than 1 year after the date of enactment of this Act, the report shall contain a detailed analysis of the status of energy export development in the United States and efforts by the Secretary and other departments and agencies of the United States to prevent loss of life from extreme temperatures. The report shall outline efforts the Secretary and the Administrator of the Environmental Protection Agency shall take to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1805. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary and the Administrator of the Environmental Protection Agency shall—

(1) conduct a study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) report in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1806. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal fleet.

SEC. 1807. REPORT ON ENERGY INTEGRATION WITH LATIN AMERICA.

The Secretary shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a relationship with Mexico regarding the development of that nation’s energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1808. LOW-VOLUME GAS RESERVOIR STUDY.

(a) STUDY.—The Secretary shall make a grant to an organization of oil and gas producing States specifically designed to study the significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work for onshore and offshore projects to prevent loss of life from extreme temperatures. Such organization shall work with the State geologist of each State being studied.

(b) CONTENTS.—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal oil and natural gas wells;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines; and

(5) recommend incentives which will enable the continued production of these resources;
(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted as a result of the practice of venting or flaring of natural gas produced in association with crude oil well production.

d) DATA ANALYSIS.—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, the Secretary shall enter into an arrangement under which the National Academy of Sciences shall conduct a study on the use of coalbed natural gas production sites to (A) presence and distribution of water aquifers, in the States of Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

1809. INVESTIGATION OF GASOLINE PRICES.

(a) INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or any other form of market manipulation or price gouging practices.

(b) EVALUATION AND ANALYSIS.—The Secretary shall direct the National Petroleum Council to conduct an investigation and analysis to determine whether, and to what extent, environmental and other regulations affect domestic refinery construction and significant expansion of existing refinery capacity.

(c) REPORTS TO CONGRESS.—

(1) INVESTIGATION.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission.

(2) EVALUATION AND ANALYSIS.—On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis; and

(B) any recommendations of the National Petroleum Council.

SEC. 1810. ALASKA NATURAL GAS PIPELINE.

Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter, the Alaska natural gas pipeline commission operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

SEC. 1811. COAL BED METHANE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study to determine if the use of clean backup fuel facilitates the expansion of existing refinery capacity.

(b) DATA ANALYSIS.—The study shall include an analysis of—

(1) production and consumption of coal bed methane; and

(2) the costs associated with mitigation techniques.

(c) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future action of the Federal Government to encourage the use of coal bed methane development.

SEC. 1812. BACKUP FUEL CAPABILITY STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the effect of obtaining and maintaining liquid and other backup fuel capability at—

(A) gas-fired power generation facilities, and

(B) other gas-fired industrial facilities.

(2) CONTENTS.—The study shall address—

(A) the costs and benefits of adding a different fuel capability to a power gas-fired power generation or industrial facility, taking into consideration regional differences; and

(B) the costs associated with the use of other backup fuels in gas-fired power generation.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future action of the Federal Government to encourage backup fuel capability.

SEC. 1813. INDIAN LAND RIGHTS-OF-WAY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior (referred to in this section as the ‘‘Secretary’’) shall jointly conduct a study of issues regarding energy rights-of-way on tribal land (as defined in section 2001 of the Energy Policy Act of 1992 (as amended by section 503)) (referred to in this section as ‘‘tribal land’’).

(2) CONTENTS.—In conducting the study under paragraph (1), the Secretaries shall consider regional differences; and

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report on the findings of the study, including—

(1) an analysis of historic rates of compensation paid for energy rights-of-way on tribal land;

(2) recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;

(3) an assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land;

(4) an analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

SEC. 1814. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) identifies any policies or procedures of a contractor-operated National Laboratory or single-purpose research facility that create incentives to the temporary or permanent placement of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities; and

(2) makes recommendations for improving interlaboratory exchange of scientific and technical personnel.

SEC. 1815. INTERAGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) TASK FORCE.—There is established an interagency task force known as the ‘‘Electric Market Competition Task Force’’ (referred to in this section as the ‘‘task force’’), consisting of 5 members—

(1) 1 of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) 1 of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairman of that Commission;

(3) 1 of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairman of that Commission;

(4) 1 of whom shall be an employee of the Department, to be appointed by the Secretary; and

(i) a balanced portfolio of fuel choices in power generation and industrial applications; and

(ii) State regulations that permit agencies in the States to carry out policies that encourage the use of other backup fuels in gas-fired power generation.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future action of the Federal Government relating to backup fuel capability.

1815. INTERAGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) TASK FORCE.—There is established an interagency task force known as the ‘‘Electric Market Competition Task Force’’ (referred to in this section as the ‘‘task force’’), consisting of 5 members—

(1) 1 of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) 1 of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairman of that Commission;

(3) 1 of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairman of that Commission;

(4) 1 of whom shall be an employee of the Department, to be appointed by the Secretary; and
(5) 1 of whom shall be an employee of the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.

(1) FINDINGS.—The task force shall conduct a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—(A) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress a final report on the findings of the task force under paragraph (1).

(B) PUBLIC COMMENT.—Not later than the date that is 60 days after the date on which the final report is submitted to Congress under subparagraph (A), the task force shall:

(i) publish in the Federal Register a draft of the report; and

(ii) provide an opportunity for public comment on the report.

(c) CONSULTATION.—In conducting the study under subsection (b), the task force shall consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public.

SEC. 1816. STUDY OF RAPID ELECTRICAL GRID RESTORATION.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the benefits of using mobile transformers and mobile substations to rapidly restore electrical service to areas subjected to blackouts as a result of—

(A) equipment failure;

(B) natural disasters;

(C) acts of terrorism; or

(D) war.

(2) CONTENTS.—The study under paragraph (1) shall contain an analysis of—

(A) the feasibility of using mobile transformers and mobile substations to reduce dependences on foreign entities for key elements of the electrical grid system of the United States;

(B) the feasibility of using mobile transformers and mobile substations to rapidly restore electrical power to—

(i) military bases;

(ii) the Federal Government;

(iii) communications industries;

(iv) first responders; and

(v) other critical infrastructures, as determined by the Secretary;

(C) the quantity of mobile transformers and mobile substations necessary—

(i) to eliminate dependence on foreign sources for key electrical grid components in the United States;

(ii) to rapidly deploy technology to fully restore full electrical service to prioritized Governmental functions; and

(iii) to identify manufacturing sources in existence on the date of enactment of this Act that have previously manufactured specialized mobile transformer or mobile substation products for Federal agencies.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (a).

(2) INCLUSION.—The report shall include a description of the results of the analysis under subsection (a)(2).

SEC. 1817. STUDY OF DISTRIBUTED GENERATION.

(a) STUDY.—

(1) IN GENERAL.—

(A) POTENTIAL BENEFITS.—The Secretary, in consultation with the Federal Energy Regulatory Commission, shall conduct a study of the potential benefits of cogeneration and small power production.

(B) RECIPROCITY.—The benefits described in subparagraph (A) include benefits that are received directly or indirectly by—

(i) an electricity distribution or transmission service provider;

(ii) other customers served by an electricity distribution or transmission service provider; and

(iii) the general public in the area served by the public utility at which the cogenerator or small power provider is located.

(2) INCLUSIONS.—The study shall include an analysis of—

(A) the potential benefits of—

(i) increased system reliability;

(ii) improved power quality;

(iii) the provision of ancillary services; and

(iv) reduction of peak power requirements through onsite generation;

(B) the provision of reactive power or volt-amperes required by the system;

(C) an emergency supply of power;

(D) offsets to investments in generation, transmission, or distribution facilities that would otherwise be recovered through rates;

(E) diminished land use effects and right-of-way acquisition costs; and

(F) reducing the vulnerability of a system to terrorism; and

(G) any rate-related issue that may impede or otherwise discourage the expansion of cogeneration and small power production facilities, including a review of whether rates, rules, or other requirements imposed on the facilities are comparable to rates imposed on customers of the same class that do not have cogeneration or small power production facilities.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) complete the study;

(2) provide an opportunity for public comment on the results of the study; and

(3) submit to the President and Congress a report describing—

(A) the results of the study; and

(B) information relating to the public comments received under paragraph (2).

(c) PUBLICIZATION.—After submission of the report under subsection (b), the Secretary shall—

(1) publish the report;

(2) submit to the President and Congress a report describing the findings, conclusions, and recommendations of the study; and

(3) an identification of estimated natural gas supplies that are not available under those Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies that compare the relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality obligations; and

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) encourage or require use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) HEARINGS.—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1818. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on natural gas supplies and demand.

(b) PURPOSE.—The purpose of the report under subsection (a) is to recommend strategies for achieving a balance between natural gas supply and demand in order to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act (42 U.S.C. 7401 et seq.);

(4) achieve congressional goals of reducing the emissions associated with electric power generation; and

(5) support the development of the preliminary phases of hydrogen-based energy technologies.

(c) COMPREHENSIVE ANALYSIS.—The report shall include a comprehensive analysis of, for the period beginning on January 1, 2004, and ending on December 31, 2015, natural gas supply and demand in the United States, including—

(1) estimates of annual domestic demand for natural gas, taking into consideration the effects of Federal policies and actions that are likely to increase or decrease the demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and non-domestic sources, under Federal policies in existence on the date of enactment of this Act;

(3) potential impacts of increased natural gas demand on natural gas supplies; and

(4) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) HEARINGS.—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1819. OVERALL EMPLOYMENT IN A HYDROGEN ECONOMY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall carry out a study of the likely effects of a transition to a hydrogen economy on overall employment in the United States.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the findings, conclusions, and recommendations of the study.

SEC. 1820. OVERALL EMPLOYMENT IN A HYDROGEN ECONOMY.
Academy shall conduct a study to assess management practices for research, development, and demonstration programs at the Department.

(b) SCOPE OF THE STUDY.—The study shall consider—

(1) management practices that act as barriers between the Office of Science and offices conducting mission-oriented research;

(2) recommendations for management practices that would improve coordination and bridge the innovation gap between the Office of Science and offices conducting mission-oriented research;

(3) the applicability of the management practices used by the Department of Defense Advanced Research Projects Agency to research programs within the Department;

(4) the advisability of creating an agency within the Department modeled after the Defense Advanced Research Projects Agency;

(5) recommendations for management practices that could best encourage innovative research and efficiency at the Department; and

(6) any other relevant considerations.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under this section.

SEC. 1822. EFFECT OF ELECTRICAL CONTAMINANTS ON RELIABILITY OF ENERGY SYSTEMS

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall determine the effect that electrical contaminants (such as tin whiskers) may have on the reliability of energy production systems, including nuclear energy.

SEC. 1823. ALTERNATIVE FUELS REPORTS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress reports on the potential for each alternative fuel, and hythane to become major, sustainable, alternative fuels.

(b) BIODIESEL REPORT.—The report relating to biodiesel submitted under subsection (a) shall—

(1) provide a detailed assessment of—

(A) potential biodiesel markets and manufacturing capacity; and

(B) environmental and energy security benefits with the use of biodiesel;

(2) identify any impediments, especially in infrastructure needed for production, distribution, and storage, to biodiesel becoming a substantial source of fuel for conventional diesel and heating oil applications;

(3) identify strategies to enhance the commercial deployment of biodiesel; and

(4) identify information and recommendations, as appropriate, of the ways in which biodiesel may be modified to be a cleaner-burning fuel.

(c) HYTHANE REPORT.—The report relating to hythane submitted under subsection (a) shall—

(1) provide a detailed assessment of potential hythane markets and the research and development necessary to facilitate the commercialization of hythane as a competitive, environmentally friendly transportation fuel;

(2) address—

(A) the infrastructure necessary to produce, blend, distribute, and store hythane for widespread commercial purposes; and

(B) other potential market barriers to the commercialization of hythane;

(3) examine the viability of producing hydrogen using energy-efficient, environmentally friendly methods so that the hydrogen can be blended with natural gas to produce hythane; and

(4) include an assessment of the modifications that would have to be made to compressed natural gas vehicle engines to engines that use hythane as fuel.

(d) GRANTS FOR REPORT COMPLETION.—The Secretary may use such sums as are available to the Secretary to provide, to 1 or more colleges or universities selected by the Secretary, grants for use in carrying out research to assist the Secretary in preparing the reports required to be submitted under subsection (a).

SEC. 1824. FINAL ACTION ON REWARDS FOR EXCELLENT PERFORMANCE.

FERC shall—

(1) seek to conclude its investigation into the unjust or unreasonable charges incurred by California because of the 2000-2001 electricity crisis as soon as possible;

(2) seek to ensure that refunds the Commission determines are owed to the State of California are paid to the State of California; and

(3) submit to Congress a report by December 31, 2005, describing the actions taken by the Commission to resolve under this section and time-tables for further actions.

SEC. 1825. FUEL CELL AND HYDROGEN TECHNOLOGY STUDY.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences and the National Research Council to carry out a study of fuel cell technologies that provides a budget roadmap for the development of fuel cell technologies and the transition from petroleum to hydrogen in a significant percentage of the vehicles sold by 2020.

(b) REQUIREMENTS.—In carrying out the study, the National Academy of Sciences and the National Research Council shall—

(1) establish the minimum percentage practicable of vehicles that the National Academy of Sciences and the National Research Council determines can be fueled by hydrogen by 2020;

(2) determine the amount of Federal and private funding required to meet the goal established under paragraph (1);

(3) determine the actions required to meet the goal established under paragraph (1);

(4) examine the need for expanded and enhanced Federal research and development programs, changes in regulations, grant programs, partnerships between the Federal Government and industry, private sector investments, infrastructure investments by the Federal Government and industry, educational and public information initiatives, and Federal and State tax incentives to meet the goal established under paragraph (1);

(5) consider whether other technologies would be less expensive or could be more quickly implemented than fuel cell technologies to achieve significant reductions in carbon dioxide emissions;

(6) take into account any reports relating to fuel cell technologies and hydrogen-fueled vehicles, including—

(A) the report prepared by the National Academy of Engineering and the National Research Council in 2001 entitled "Hydrogen Economy: Opportunities, Costs, Barriers, and R&D Needs"; and

(B) the report prepared by the U.S. Fuel Cell Council in 2002 entitled "Hydrogen: The Path Forward";

(7) consider the challenges, difficulties, and potential barriers to meeting the goal established under paragraph (1); and

(8) with respect to the budget roadmap—

(A) specify the amount of funding required on an annual basis from the Federal Government and industry to carry out the budget roadmap; and

(B) specify the advantages and disadvantages to moving toward the transition to hydrogen in vehicles compared to the timeline established by the budget roadmap.

SEC. 1826. PASSIVE SOLAR TECHNOLOGIES.

(a) DEFINITION OF PASSIVE SOLAR TECHNOLOGY.—For purposes of this section, "passive solar technology" means a passive solar technology, including daylighting, that—

(1) is used exclusively to avoid electricity use; and

(2) can be metered to determine energy savings.

(b) STUDY.—The Secretary shall conduct a study to determine—

(1) the range of levelized costs of avoided electricity for passive solar technologies;

(2) the quantity of electricity displaced using passive solar technologies in the United States as of the date of enactment of this Act; and

(3) the projected energy savings from passive solar technologies in 5, 10, 15, 20, and 25 years after the date of enactment of this Act if—

(A) incentives comparable to the initiatives provided for electricity generation technologies were provided for passive solar technologies; and

(B) no new incentives for passive solar technologies were provided.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under subsection (b).

SEC. 1827. STUDY OF LINK BETWEEN ENERGY CONSUMPTION PATTERNS IN THE UNITED STATES AND VEHICLE MILES TRAVELED.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Secretary shall conduct a study to assess the implications on energy use and efficiency of land development patterns in the United States.

(b) SCOPE.—The study shall consider—

(1) the correlation, if any, between land development patterns and increases in vehicle miles traveled;

(2) whether petroleum use in the transportation sector can be reduced through changes in the design of development patterns; and

(3) the potential benefits of—

(A) information and education programs for State and local officials (including planning officials) on the potential for energy savings through planning, design, development, and infrastructure decisions; and

(B) incorporation of location efficiency models in transportation infrastructure planning and investments;

and

(C) transportation policies and strategies to help transportation planners manage the demand for the number and length of vehicle trips, including trips that increase the viability of other means of travel; and

(4) such other considerations relating to the study topic as the National Academy of Sciences finds appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall—

(1) submit a report to the Secretary and Congress a report on the study conducted under this section.

(2) SEC. 1828. SCIENCE STUDY ON CUMULATIVE IMPACTS OF MULTIPLE OFFSHORE LIQUEFIED NATURAL GAS FACILITIES.

(a) IN GENERAL.—The Secretary (in consultation with the National Oceanic Atmospheric Administration, the Commandant of the Coast Guard, affected recreational and commercial fishing industries, and affected energy and transportation stakeholders) shall carry out a study and compile existing science (including studies and data) to determine the risks or benefits presented by cumulative impacts of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using the open-rack vaporization system.

(b) ACCURACY.—In carrying out subsection (a), the Secretary shall verify the accuracy of available science and develop a science-based evaluation of significant short-term and long-term cumulative impacts, including impacts of individual, multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using or promoting the open-rack vaporization system on the fisheries and marine populations in the vicinity of the facility.
SEC. 1832. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.
(a) STUDY.—The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to produce energy at the lowest cost to reliably serve covered persons; and

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in individual States of economic dispatch procedures to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1833. RENEWABLE ENERGY ON FEDERAL LAND.
(a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) study the potential of developing wind, solar, and ocean energy resources (including tidal, wave, and thermal energy) on Federal land available for those uses under current law and the Outer Continental Shelf.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1834. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.
(a) IN GENERAL.—The Secretary of the Interior, the Secretary of the Army, and the Secretary of the Army shall jointly conduct a study of the potential for increasing electric power production capabilities at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that—

(1) has on site usable, and capable of producing, hydroelectric power without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydropower; and

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) Information and data relating to any additional energy or capacity from each facility identified under subsection (b) that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing general rehabilitation or renovation, or by construction of pumped storage facilities.

(c) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall jointly conduct a study of the potential for increasing the output for inclusion in economic dispatch.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1835. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.
(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the
Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately owned surface resources, and shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owner, and the Federal Government department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (26 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 1836. RESOLUTION OF FEDERAL RESOURCE CONFLICTS IN THE POWDER RIVER BASIN.

(a) REVIEW.—The Secretary of the Interior shall review Federal and State laws in existence on the date of enactment of this Act in order to resolve any conflict relating to the Powder River Basin in Wyoming and Montana between—

(1) the development of Federal coal; and

(2) the development of Federal and non-Federal coalbed methane.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that—

(1) describes methods of resolving a conflict described in subsection (a); and

(2) identifies a method preferred by the Secretary of the Interior, including proposed legislative, administrative, or other means to achieve such resolution.

SEC. 1837. NATIONAL SECURITY REVIEW OF INTERNATIONAL ENERGY REQUIREMENTS.

(a) STUDY.—The Secretary, in consultation with the Secretary of Defense and the Secretary of Homeland Security, shall conduct a study of the growing energy requirements of the People's Republic of China and the implications of such growth on the political, strategic, economic, or national security interests of the United States, including—

(1) an assessment of the type, nationality, and location of energy assets that have been sought for investment by entities located in the People's Republic of China;

(2) an assessment of the extent to which investment in energy assets by entities located in the People's Republic of China has been on market-based terms and free from subsidies from the People's Republic of China;

(3) an assessment of the effect of investment in energy assets by entities located in the People's Republic of China on the control by the United States of dual-use and export-controlled technologies, including the effect on current and future access to the domestic systems of rare earth elements used to produce such technologies;

(4) an assessment of the relationship between the Government of the People's Republic of China and energy-related businesses located in the People's Republic of China;

(5) an assessment of the impact of the world energy market on the common practice of entities located in the People's Republic of China of removing the energy assets owned or controlled by such entities and the competitive market, with emphasis on the effect if such practice expands along with the growth in energy consumption of the People's Republic of China;

(6) an assessment of the United States energy policy and foreign policy as it relates to ensuring a competitive global energy market; and

(7) an examination of the relationship between the United States and the People's Republic of China as it relates to pursuing energy interests in a manner that avoids conflicts; and

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Defense, shall report to the President on the findings of the study described in subsection (a) and any recommendations the Secretary considers appropriate.

(c) REGULATORY EFFECT.—Notwithstanding any other provision of law, any instrumentality of the United States vested with authority to review a transaction that includes an investment in United States domestic companies may not conclude a national security review related to an investment in the energy assets of a United States domestic corporation by an entity owned or controlled by the government of the People's Republic of China for 21 days after the report to the President and the Congress, and until the President certifies that has received the report described in subsection (b).

SEC. 1838. USED OIL RE-FINING STUDY.

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall undertake a study of the energy and environmental benefits of the re-refining of used lubricating oil and report to Congress with—

(1) the estimated costs of each such project; and

(2) the development of Federal and non-Federal regulatory mechanisms to implement such projects.

SEC. 1839. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study the Commission shall determine the technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such a system.

SEC. 1840. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) REPORT REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary, in the Interior, acting through the Bureau of Reclamation, shall submit to the Committees on Appropriations the Secretary shall include—

(1) an identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(2) The purposes of each project included within each study identified under paragraph (1).

(3) The status of each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) the approximate economic impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable);

(H) anticipated costs of each such project; and

(I) other factors that might interfere with construction of any such project.

(4) An identification of potential hydroelectric facilities that might be developed pursuant to each study identified under paragraph (1).

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Joe Barton,
Ralph M. Hall,
Mike Bishop,
Fred Upton,
Cliff Stearns,
Pete Stark,
John Shimkus,
John Shadegg,
Chip Pickering,
Roy Blunt,
Charles F. Bass,
John D. Dingell,
Rick Boucher,
Bart Stupak,
Albert R. Wynn,
From the Committee on Agriculture, for consideration of secs. 332, 344, 346, 1701, 1806, 2024, 2029, and 2030 of the House bill, and secs. 251–253, 264, 303, 319, 342, 343, 345, and 347 of the Senate amendment, and modifications committed to conference:

Bob Goodlatte,
Frank D. Lucas,
Collin C. Peterson,
From the Committee on Armed Services, for consideration of secs. 101, 601–607, 609–612, and 616 of the House bill, and secs. 104, 281, 601–607, 609, 610, 623, 741–743, 1005, and 1006 of the Senate amendment, and modifications committed to conference:

Duncan Hunter,
Curt Weldon,
Ike Skelton,
From the Committee on Education and the Workforce, for consideration of secs. 121, 632, 640, 2206, and 2209 of the House bill, and secs. 625, 1103, 1104, and 1106 of the Senate amendment, and modifications committed to conference:

Charlie Norwood,
Sam Johnson,
From the Committee on Financial Services, for consideration of secs. 141–149 of the House bill, and secs. 161–164 and 505 of the Senate amendment, and modifications committed to conference:

Michael G. Oxley,
Bob Ney,
From the Committee on Government Reform, for consideration of secs. 102, 104, 105, 203, 205, 502, 624, 632, 701, 704, 1002, 1227, and 2304 of the House bill, and secs. 102, 104, 105, 108, 203, 502, 625, 701–703, 723–725, 741–743, 939, and 1011 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Darrell Issa,
Diane Watson,
From the Committee on the Judiciary, for consideration of secs. 320, 377, 612, 623, 632,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause, and inserted a substitute text.

The House recessed to consider the Senate amendment, and modifications committed to conference:

Richard Pombo,
Barbara Cubin,
Nick Rahall,

From the Committee on Rules, for consideration of the Senate amendment, and modifications committed to conference:

David Dreier,
Lincoln Diaz-Balart,
Louise Slaughter,

From the Committee on Science, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

G. R. Grijalva,
Mike Bilirakis,
Pete Stark,

From the Committee on Armed Services, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Frank Lucas,
James Inhofe,
Jim Inhofe,

From the Committee on Appropriations, for consideration of the Senate amendment, and modifications committed to conference:

David Dreier,
Lincoln Diaz-Balart,
Louise Slaughter,

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Joe Barton,
Ralph Hall,
Mike Bilirakis,
Fred Upton,

From the Committee on Education and the Workforce, for consideration of the Senate amendment, and modifications committed to conference:

John Yarmuth,
Tom Price,

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Joe Barton,
Ralph M. Hall,
Mike Bilirakis,
Fred Upton,
Cliff Stearns,
Paul Gillmor,
John Shimkus,
John Shadegg,
Chip Pickering,
Roy Blunt,
Charles F. Bass,
John D. Dingell,
Rich Boucher,
Bart Stupak,
Albert R. Wynn,

From the Committee on Ethics, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Bob Goodlatte,
Frank D. Lucas,
COLIN C. PETERTSON,

From the Committee on Foreign Relations, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

James Inhofe,
Jim Inhofe,

From the Committee on Government Reforms, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Alexioubi,
Bart Garden,

From the Committee on Government Reform, for consideration of the Senate amendment, and modifications committed to conference:

Alexioubi,
Bart Garden,

DON YOUNG,


FROM THE COMMITTEE ON WAYS AND MEANS, FOR CONSIDERATION OF TITLE XIII OF THE HOUSE BILL, AND SEC. 135, 405, TITLE XV, AND SEC. 1611 OF THE SENATE AMENDMENT, AND MODIFICATIONS COMMITTED TO CONFERENCE:

WILLIAM THOMAS,
DAVE CAMP,
MANAGERS ON THE PART OF THE HOUSE,
PETE DOMENICI,
LARRY E. CRAIG,
The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

The legislative clerk read as follows:
A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

The PRESIDENT pro tempore. Under the previous order, the time from 10 to 2 p.m. shall be equally divided, with the majority in control of the first hour and the Democrats in control of the second hour, rotating in that fashion until 2 p.m.

Recognition of the Majority Leader
The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, this morning we are returning to the motion to proceed to the Protection of Lawful Commerce in Arms Act, otherwise known as the gun manufacturers liability legislation. Yesterday we invoked cloture on the motion to proceed. We now have an order to begin the bill at 2 p.m. today. The debate will be equally divided until 2 o'clock today. I understand a rollover vote will not be necessary, and we will have a voice vote at 2 p.m. and then be on the bill.

Senators can expect a cloture vote on the underlying bill to occur on Friday, unless we change that time by consent. As I stated repeatedly over the last several days, we are going to have a very busy session as we address a range of issues, including energy and highways and the Interior funding bill, the gun manufacturers liability bill, veterans funding, nominations, and other issues.

Just a quick update on several of these. In terms of the Energy bill, after 5 years of hard work, the energy conferees are now done. I expect that that legislation will be filed shortly. This is a major accomplishment that will cause serious and dramatic changes in how we produce, deliver, and consume energy. We simply would not be at this point without the hard work, the perseverance, and the patience of Senator Domenici and his partner, Senator Bingaman, as well as Congressman Barton. We will pass that conference report this week. Our country will be all the better for it.

I was talking to the Secretary of Energy earlier this morning. We were discussing the absolute importance of passing this bill to establish a framework of policy from this legislative body. He again referred to the great good this bill will do.

On highways, it has taken this Congress 3 tough years of work to come to this point, but with just a little more work, we will have a bill that the President will sign. Our conferees are working and should complete the writing of it today. I spent time with several of the conferees yesterday and with the Speaker, as we coordinate completion of this highway bill.

The good news for the American people is, as they see what is sometimes confusing on the floor of the Senate as these bills come in, this particular highway bill will make our streets and our highways safer. It will make our economy more productive. It will create many new jobs.

I mentioned veterans funding. Yesterday, the House and Senate majority agreed to ensure that $1.5 billion of needed funding will be given to the Department of Veterans Affairs this fiscal year. Veterans can be assured that their health care will remain funded. I know it is confusing what you hear on the floor, but that action is being taken.

I mentioned Interior funding. Yesterday both Houses agreed to fund many of the programs that affect many of our public lands held in trust for Americans throughout the country. We intend to complete action on this conference report this week as well.

Late last night, the conferees completed work on the Legislative Branch appropriations bill, and we will be attempting to clear that legislation as well this week.

- This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
I mentioned all these to give my colleagues an update because there is so much activity going on right now, in addition to the very important legislation that is on the floor.

After several months of aggressive work, we can now look back and say that we have brought the Cabinet full strength for the President’s second term in effect. We have accomplished very important class action legislation, after several years and years of delay. We finished bankruptcy reform, which we have worked on in the Congress, both Houses, since the late 1990s. We completed writing one of the fastest budgets in congressional history with the goal, which we have achieved, as well as address critical national needs. By the time we get to the recess—I mention that because we have a long recess. A recess is the time that we can use to go back and be with our constituencies. We do have a long recess in August. I say that to preface how important it is that we complete all of our work this week. The American people expect us to complete action on the very necessary, very important bills which I have mentioned—bills that will make a real difference in the everyday lives of Americans. We are talking about funding for health care, veterans, highways, and energy. We are demonstrating governing with meaningful solutions to everyday problems of Americans.

These bills will affect people’s lives directly, will create opportunities for new jobs, help people to fulfill the American dream, and also address critical national needs. By the time we get to the recess—I mention that because we have a long recess. A recess is the time that we can use to go back and be with our constituencies. We do have a long recess in August. I say that to preface how important it is that we complete all of our work this week. The American people expect us to complete action on the items that I mentioned. There is a tendency to think the recess is going to start maybe a day early. It certainly looks like, because we are going to be busy, that we will be working through Friday of this week. I will be in constant consultation with the Democratic leader. We will have the opportunity to talk several times throughout the day.

At this point, we cannot rule out a Saturday session, if it is absolutely necessary, which we can have if we plan our work earlier, but we simply can’t rule out a Saturday session at this point. I do ask for Members to keep their schedules flexible until we get through this legislative calendar. We will in a bipartisan way work to get this done, and I am proud of once we leave for our August recess.

HEALTH CARE

Mr. President, most of what I have said has to do with accomplishments, challenges, and schedule. I want to turn and talk about that I care passionately about, an issue that most, if not all Americans, care about, and that is health care.

As I travel around the country, in part because I am a physician but in larger part because of the reality of the problem, the cost of health care, as well as the safety and quality of health care, is among the first and foremost concerns of American people. They want us to lower the cost. You do that by improving quality and getting rid of waste, and we are doing just that.

I am pleased to report that after years of challenging work, difficult work, and a lot of negotiation among ourselves on both sides of the aisle, the House is expected to join the Senate in passing a bill called the Patient Safety and Quality Improvement Act. I am hopeful they will pass that bill today. We passed it not too long ago. I mention it because it focuses on getting waste out of the system, and it does so by putting the emphasis on patients.

A patient-centered system is what I strongly believe we need to move to in the future. This does just that. Patient safety is something that concerns me. We have an obligation, as physicians, as nurses, as the health care sector, but also as a public policy body, to make sure that patient safety is maximized. People say: Of course, you do. But if you look back at the Institute of Medicine’s report not too long ago that really started a lot of this debate, they estimated that up to 98,000 deaths are caused each year by medical errors. That would mean that every year, there are occurring every day in hospitals and clinics, and even at home when people are taking medicines, the eighth leading cause of death each year. That is more than car accidents, HIV/AIDS, or breast cancer. People dispute the number. Is it 98,000? Is it 125,000? Is it 75,000? The exact number doesn’t matter. The fact that there are thousands and thousands of needless deaths being caused is inexcusable. This body has acted. The House will act. And I am hopeful the President will be able to sign that important legislation in the next several days.

What is so obvious to me as a physician, having spent 20 years in the medical arena, every day in the healing profession, is that the tragedy of all these deaths is compounded by the fact that these deaths and the many errors that result in prolonged hospitalization, more misery, greater cost, can be prevented, can be avoided. Simple reporting procedures, sharing of information, improved technology, a systems approach—all can reduce these preventable errors, and thereby improve hundreds of thousands of lives and actually save tens of thousands of lives.

So people ask, What is the problem? The fear of litigation has kept many health care providers—doctors, nurses, and lab technicians in the hospitals—from sharing information if a mistake is inadvertently made. Everybody makes mistakes, but if you have a mistake that is made, you need to be able to share it with people so you can develop a system to keep it from happening in the future. We all do that in our everyday lives.

For example, in hospitals, there is a tendency not to do that because if you share your mistake, there is a preda
tory trial lawyer who will sweep in and find that error and take you to court and destroy you and the system. It is human nature to say, if that is the case, Yes, I made a mistake, I will im
mortunately know I made a mistake because it will destroy my future. People are afraid of sharing their internal data, such as their collection of reporting of infections that could have been prevented with preventable techniques or a medical error that might expose them to a ruinous lawsuit. That drives the reporting of these medical errors underground.

The bill will change all of that, and it will lift this threat of litigation and agey zeal in the aviation sector—mechanics, pilots, air traffic controllers, flight attendants, and the general public—to voluntarily report—I remember the blue cards you reported on—potential or actual safety problems and you could do so without fear of recrimination.

That is why this voluntary aspect is so important. Because that information in the aviation field was shared internally and with others, accidents went down and overall safety went up dramatically. Everyone improved. Quality improved and safety improved by learning from others.

The patients safety bill that is before the House of Representatives today—the same bill that passed in this body last Thursday—promises exactly the same kind of benefits, in parallel, that were passed in 1975, and this is 2005, 30 years later than it should have been. The provisions of this bill for hospitals and physicians and other health professionals will be able to share this information about their practices with independent PSOs, or patient safety organizations, without the fear of lawsuits, and this transparency will improve quality.

America has the absolute best health care in the world. I have seen it by
doing heart transplants, using the best of lasers to resect tumors out of the trachea or windpipe, and with developing ventricular assist devices. I was in Tanzania some weeks ago working at a small clinic out in the bush, and when you have a sick African, you have the most advanced health care in the world, with new treatments and techniques, improving millions of lives every day.

Through this bill, we are putting that same sort of American ingenuity to work improving patient safety in hospitals and clinics and thus getting rid of waste and improving the overall quality of care. This bill is a major step forward to making health care safer and less costly, driving up the quality, driving down costs, and getting out the waste.

I can tell you, this is the first major health bill in this Congress. But I hope in the very near future we will pass other important legislation we are working on in a similarly bipartisan way—namely, information technology to have privacy-protected, electronic medical records available to everybody who wants it. It is a bipartisan effort. We have come a long way, and I am hopeful that we can do that in the near future.

We are establishing interoperability standards—working with the private sector to establish interoperability standards which will allow the 6,000 hospitals and the 150,000 physicians out there to be able to communicate in a seamless way, with privacy-protected information. Again, it is another bill that would get rid of waste, drive down the cost of health care, and improve quality.

I am excited about these health initiatives. I thank my colleagues who have specifically been involved in this bill, including Chairmen Mike Enzi, Senator Judd Gregg, Senator Jim Jeffords, who has been at it as long as anybody in this particular bill on patient safety—and, of course, Senator Ted Kennedy. On the House side, Chairwoman Joe Barton and ranking member John Dingell have done a tremendous job as well shepherding through, the Patient Safety and Quality Improvement Act. We are saving lives and moving American medicine forward.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I understand that the Republican side has from 10 until 11, is that correct, under the unanimous consent agreement?

The PRESIDENT pro tempore. That is correct. The first hour is under the control of the majority, the second hour is under the control of the minority, and it reverts back to the majority and then the minority.

Mr. CRAIG. Mr. President, I send to the desk a list of 61 cosponsors of S. 397, the Protection of Lawful Commerce in Arms Act that is currently pending before the Senate, and I ask unanimous consent that it be printed in the RECORD.

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

COSPONSORS, BY DATE

Sen. Baucus, Max [D-MT]—2/16/2005*
Sen. Chane, Blair [S-RX]—2/16/2005*
Sen. Collins, Susan M. [R-ME]—2/16/2005*
Sen. Craig, Larry [R-ID]—2/16/2005*
Sen. Crapo, Mike [R-ID]—2/16/2005*
Sen. Ensign, John [R-NV]—2/16/2005*
Sen. Hatchison, Kay Bailey [R-TX]—2/16/2005*
Sen. Isakson, Johnny [R-GA]—2/16/2005*
Sen. Kyl, Jon [R-AZ]—2/16/2005*
Sen. Santorum, Rick [R-PA]—2/16/2005*
Sen. Snowe, Olympia J. [R-ME]—2/16/2005*
Thomas, Craig [R-WY]—2/16/2005*
Sen. Specter, Arlen [R-PA]—2/16/2005*
Sen. Sununu, John E. [R-NH]—2/16/2005*
Sen. Vitter, David [R-LA]—2/16/2005*
Sen. DeMint, Tim [R-SC]—3/1/2005
Sen. Dorgan, Tom [D-ND]—3/1/2005
Sen. Gregg, Judd [R-NH]—3/1/2005
Sen. Reed, Lincoln [D-RI]—3/1/2005
Sen. Cochen, Thad [R-MS]—3/1/2005
Sen. Specter, Arlen [R-PA]—3/1/2005
Sen. Bennett, Robert F. [R-UT]—4/12/2005
Sen. McCain, John [R-AZ]—7/21/2005
Sen. Biden, Joe [D-DE]—7/21/2005
Sen. Coburn, Tom [R-OK]—1/2/2005
Sen. Cornyn, John [R-TX]—2/16/2005*
Sen. Domenici, Pete V. [R-NM]—2/16/2005*
Sen. Enzi, Michael B. [R-WY]—2/16/2005*
Sen. Inhofe, James M. [R-OK]—2/16/2005*
Sen. Johnson, Tim [D-SD]—2/16/2005*
Sen. Lincoln, Blanche L. [D-AR]—2/16/2005*
Sen. Nelson, Ben [D-NE]—2/16/2005*
Sen. Sessions, Jeff [D-AL]—2/16/2005*
Sen. Stevens, Ted [R-AK]—2/16/2005*
Sen. Thune, John [R-SD]—2/16/2005*
Sen. Allen, George [R-VA]—2/16/2005*
Sen. Landrieu, Mary L. [D-LA]—2/16/2005*
Sen. Boxer, Barbara [D-CA]—2/16/2005*
Sen. Grassley, Chuck [R-IA]—3/1/2005
Sen. Hagel, Chuck [R-NE]—3/1/2005
Sen. Lott, Trent [R-MS]—3/2/2005
Sen. Talent, Jim [R-MO]—3/2/2005
Sen. Martinez, Mel [R-FL]—3/2/2005
Sen. Brownback, Sam [R-KS]—3/2/2005
Sen. Bond, Christopher S. [R-MO]—3/2/2005
Mitch [R-KY]—3/1/2005
Sen. Coleman, Norm [R-MN]—3/1/2005
Sen. Voinovich, George V. [R-OH]—4/12/2005
Sen. Specter, Arlen [R-PA]—5/2/2005

Mr. CRAIG. Mr. President, the reason I sent that list of cosponsors to the desk is to demonstrate to all of our colleagues that 61 Senators—56 plus myself—are now in support of the legislation that is pending before the Senate that we will move to active consideration of this afternoon at 2 o’clock. I think it demonstrates to all of us the broad, bipartisan support this legislation has and reenunciation that the time for S. 397 has arrived.

This legislation prohibits one narrow category of lawsuits: suits against the firearms industry for damages resulting from the criminal or unlawful misuse of a firearm or ammunition by a third party.

It is very important for everybody to understand that it is that and nothing more. The lawsuits that are currently aimed at bankrupting the firearms industry. The courts of our Nation are supposed to be a forum for resolving controversies between citizens and providing relief where it is warranted, not a mechanism for achieving political goals. That is why I have come to this floor and the floor of the other body.

Interest groups, knowing that clear well, have now chosen the court route to attempt to destroy this very valuable industry in our country.

Two dozen suits have been filed on a variety of theories, but all seek the same goal of forcing law-abiding businesses selling a legal product to pay for damages from the criminal misuse of that product. I must say, if the trial bar wins here, the next step could be another industry and another product.

While half of these lawsuits have already been fully and finally dismissed, other cases are still on appeal and pending. Hundreds of millions of dollars are still being spent on a bill that would require the dismissal of existing suits, as well as future suits that fit this very narrow category of description. It is not a gun industry immunity bill because it does not protect firearms or ammunition manufacturers, sellers, or trade associations from any other lawsuits based on their own negligence or criminal conduct.

This bill gives specific examples of lawsuits not prohibited—product liability, negligence or negligent entrustment, breach of contract, lawsuits based on violations of States and Federal law. And yet, we already heard the arguments on the floor yesterday, and I am quite confident we will hear them again and tomorrow, that this is a sweeping approach toward creating immunity for the firearms industry.

I repeat for those who question it, read the bill and read it thoroughly. It is not a long bill. It is very clear and very specific.

The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal gun violence. Furthermore, it threatens a domestic industry that is critical to our national defense, jeopardizes hundreds of thousands of good-paying jobs, and puts at risk access Americans have to a legal product used for hundreds of years across this Nation for lawful purposes, such as recreation and self-defense.

Thirty-three States enacted similar gun lawsuit bans or civil liability protection. In other words, already 33
States, because of our silence, have felt it necessary to speak up to protect law-abiding citizens from this misuse of our courts.

Yesterday, opponents repeatedly charged that negligent businesses and people could be left off the hook by this bill. It was even stated that this bill would bar virtually all negligence and product liability cases in States and Federal courts. I repeat, nothing can be further from the truth. For those who come on this floor to make that charge, my challenge to them is to read the bill. Obviously they have not. They are simply following the script of the anti-gun community of this Nation. That is not fair to Senators on this floor to be allowed to believe what this legislation simply does not do nor does it say.

The bill affirmatively allows lawsuits brought against the gun industry when they have been negligent. The bill affirmatively allows product liability action. Any manufacturer, distributor, or dealer who knowingly violates any State or Federal law can be held civilly liable under the bill. This bill does not shut the courthouse door.

Under S. 397, plaintiffs will have the opportunity to argue that their case falls within the exception, such as violations of Federal and State law, negligent entrustment, knowingly transferring to a dangerous person. That is what that all means, that you have knowingly sold a firearm to a person who cannot legally have it or who you have reason to believe could use it for a purpose other than intended. That all comes under the current definition of Federal law.

Breach of contract or the warranty or the manufacture or sale of a defective product—these are all well-accepted legal principles, and they are protected by this bill. Current cases where a manufacturer, distributor, or dealer knowingly violates a State or Federal law will not be left out.

Opponents have complained about the Senate considering this bill at the same time and even have impugned the motives of the Senators who support it. The votes yesterday speak for themselves. Sixty-six Senators said it is time we get this bill before the Senate, and that is where we are today. When a supermajority of the Senate speaks, there is no question that the Senate moves, as it should, in that direction. The best musters the more needed to invoke cloture on the Defense authorization bill which would have moved us to a final vote on that measure possibly by tonight. But the Senate, as I have said, by a wide margin spoke yesterday to the importance of dealing with this issue. Sixty-six Senators said let's deal with it now, and I have just sent to the desk 61 signatures of the cosponsors of this bill that demonstrate broad bipartisan support.

I think it is appropriate to consider all of this in the context of the Defense authorization bill because the reckless lawsuits we are seeking to stop are aimed at businesses that supply our soldiers, our sailors, and our airmen with their firepower. Stop and think about it. Would there ever be a day when all of our military would be armed with weapons manufactured in a foreign nation? There are many in this country who are attempting to drive our firearm manufacturers from this country, who would have it that way. Clearly, it is within the appropriate context as we deal with Defense authorization by talking about the credibility and the assurance we are able to sustain the firearm manufacturing industry in this country. In fact, the United States is the only major world power that does not have a firearm factory of its own. That is something that simply ought not be tolerated. Thirty-eight of our colleagues of both parties signed on to a letter to Majority Leader Frist making this very point: the importance of dealing with all firearms industries against reckless lawsuits.

I would read from that letter, but I see that my colleague from Oklahoma is now on the floor wishing to discuss this legislation.

Mr. President, I yield the floor in recognition of Senator Coburn.

The PRESIDING OFFICER. (Mr. Alexander). The Senator from Oklahoma.

Mr. COBURN. Mr. President, first, I thank the Senator from Idaho for his unwavering faithfulness to the Constitution and upholding his oath as a Senator, as a Member of this body.

The Bill of Rights is important to us, and I rise today in support of that Bill of Rights and, in particular, the second amendment. Not only do I believe the right to bear arms is guaranteed by the U.S. Constitution, I exercise that right personally as a gun owner. I stand on behalf of the people of Oklahoma who adamantly support the second amendment and the right to carry arms and against the attack on that right by the frivolous lawsuits that have come about of late.

We have seen many attempts to curtail the second amendment. Nearly a decade ago anti-gun activists tried to limit the right of law-abiding citizens under the banner of "terrorism" legislation by slipping in anti-gun provisions.

In another line of attack, the anti-gun lobby responded to decreasing enthusiasm for limiting handguns by promoting a new form of gun control—a cosmetic ban on guns labeled with the inflammatory title "assault weapons." While that ban expired in 2004, we will likely see Members of this body attempt to add a renewal and expansion of that ban on this bill today.

Now anti-gun activists have found another way to constrict the right to bear arms and tack the Bill of Rights and the Constitution, and that is through frivolous litigation. They have not succeeded in jailing thousands of law-abiding Americans for having guns, or making the registration and purchase process so onerous that nobody bothers to buy a gun. They have failed to get their cosmetic weapons ban renewed. So now they must attack the arms industry financially through lawsuits—frivolous lawsuits, I might say.

This is why we are here today—to put a stop to the unmeritorious litigation that threatens to bankrupt a vital industry in this country.

An important aside, I strongly believe it is important that we not write legislation that provides immunity for an industry that knowingly harms consumers.

It is also important that those who commit crimes, with or without the use of firearms, should be punished for their actions. I have always been a strong supporter of tough crime legislation. However, make no mistake, the lawsuits that will be prohibited under this legislation are intended to drive the gun industry out of business. With no gun industry, there is no second amendment right because there is no supply.

These lawsuits against gun manufacturers and sellers are not directed at perpetrators of crime. Instead, they are a part of a stealth effort to limit gun ownership, and I oppose any such effort adamantly.

Anti-gun activists have failed to advance their agenda at the ballot box. They failed to advance their agenda in the legislatures. Therefore, they are hoping these cases will be brought before sympathetic activist judges—activist judges—who will determine by judicial fiat that the arms industry is responsible for the action of third parties.

Additionally, trial lawyers are working hand in glove with the anti-gun activists because they see the next litigation cash cow, the next cause of action that will create a fortune for them in legal fees.

As a result of some of the efforts of the anti-gun activists and some trial lawyers, the gun manufacturing and sales industry face huge costs that arise from simply defending unjustified lawsuits, not to mention the potential of runaway verdicts. This small industry has already experienced over $200 million in such charges. Even one large verdict could bankrupt an entire industry.

Since 1988, individuals and municipalities have filed dozens of novel lawsuits against members of the firearms industry. These suits are not intended to create a solution. They are intended to drive the gun industry out of business by holding manufacturers and dealers liable for the intentional and criminal acts of third-party criminals whom they have absolutely no control.

In testimony before a House subcommittee in 2005, the general counsel of the National Shooting Sports Foundation, Inc., said:

I believe a conservative estimate of the total, industry-wide cost of defending ourselves to date now exceeds $200 million.
What does that produce in our country other than waste and abnormal enrichment of the legal system?

This is a huge sum for a small industry such as the gun industry. The firearms industry manufactures firearms for America’s military forces and law enforcement agencies, the 9, the 11. Due in part to Federal purchasing rules these guns are made in the U.S. by American workers. Successful lawsuits could leave the U.S. at the mercy of small foreign suppliers.

Second, by restricting the gun industry’s ability to make and sell guns and ammunition, the lawsuits threaten the ability of Americans to exercise their second amendment right to bear arms. This would be the equivalent of holding a car dealer responsible for a person who intentionally runs down a pedestrian simply because the car that was sold by the dealer was used by a third party to commit homicide.

Guns, like many other things, can be dangerous in the wrong hands. The manufacturer or seller of a gun who is not negligent and obeys all applicable laws should not be held accountable for the unforeseeable actions of a third party. This is a country based on personal accountability, and when we start muddying that aspect of our law and culture we will see all sorts of unintended consequences.

The economic impact of this problem may be felt in other ways. In my home State of Oklahoma, hunting and fishing creates an enormous economic impact. It is tremendously positive. Hunters bring in retail sales of over $292 million a year. The financial insolvency of gun manufacturers and sellers would have a devastating effect on my State and many other States similar to Oklahoma.

Insurance rates for firearm manufacturers have skyrocketed since these suits began, and some manufacturers are abandoning insurance and seeing their policies canceled, leaving them unprotected and vulnerable to bankruptcy. That is the ultimate goal of these suits—bankruptcy and the elimination of this arms industry. Because of that, 33 State legislatures have acted to block similar lawsuits, either by limiting the power of localities to file suit or by amending State product liability laws. However, it only takes one lawsuit in the State to bankrupt the entire industry, making all of those State laws inconsequential. That is why it is essential that we pass Federal legislation.

Additionally, plaintiffs in these suits demand enormous monetary damages and a broad variety of injunctive relief relating to the design, the manufacture, the distribution, the marketing, and the sale of firearms. Some of the most outrageous demands: One-gun-a-month purchase restrictions not required by State laws; requiring manufacturers and distributors to “participate in a court-ordered study of lawful demand for firearms and to cease sales in excess of lawful demand;’’ prohibition on sales to dealers who are not stocking dealers with at least $250,000 of inventory—in other words, we are going to regulate how much you have to have in inventory before you can be a gun seller; a permanent injunction requiring the addition of a safety feature for handguns that will prevent their discharge by “those who steal handguns’’; and a prohibition on the sales of guns near Chicago that by their design are unreasonably attractive to criminals.

These lawsuits are frivolous. Anti-gun activists want to blame violent acts of third parties on manufacturers of guns for simply manufacturing guns and sellers of guns for simply selling them. None of this makes any sense. This would be the equivalent of holding a car dealer responsible for a person who intentionally runs down a pedestrian simply because the car that was sold by the dealer was used by a third party to commit homicide.

We are coming up on a judicial nomination for the Supreme Court. One of the questions that has to be asked is what is the proposal. What is the role in terms of judges making law rather than interpreting law? It will be a key question.

So far judges have not been convinced by their arguments. Here are a few examples. The Supreme Court struck down the right of New Orleans to bring a suit in the face of a State law forbidding it, in an opinion stating clearly:

This lawsuit constitutes an indirect attempt to regulate the lawful design, manufacture, marketing, and sale of a lawful firearm.

Judge Berle M. Schiller of the U.S. District Court for the Eastern District of Pennsylvania struck the nail on the head when dismissing all of Philadelphia’s allegations, stating that “the city’s action seeks to control the gun industry by litigation, an end the city could not accomplish by passing such an ordinance.’’

The Delaware Superior Court adeptly stated that “the Court sees no duty on the manufacturer’s part that goes beyond their duties with respect to design and manufacture. The Court cannot imagine that the design can be designed that operates for law-abiding people but not for criminals."

A word of caution. Most new tort ideas took a while to work. All it would take is one multimillion-dollar lawsuit to severely damage this industry. This bill is limited in scope. It protects only licensed and law-abiding firearms and ammunition manufacturers and sellers from lawsuits that seek to hold manufacturers and sellers responsible for the crime that third party criminals commit with their nondefective products.

Manufacturers and sellers are still responsible for their own negligent or criminal conduct and must operate entirely within the Federal and State laws.

Firearms and ammunition manufacturers or sellers may be held liable for negligent entrustment or negligence per se; violation of a State or Federal statute applicable to the sale or marketing of the product where the violation was the proximate cause of the harm for which relief is sought; breach of contract or warranty; and product defect. They still are responsible for all that through this bill. It takes none of that away. It holds personal accountability solid and steadfast. It does not infringe on it. Claimants may still go to court to argue that their claims fall under one of the exceptions.

In my opinion, gun manufacturers and sellers are already policed enough, too much, through hundreds of pages of
statutes, hundreds of pages of regulations. To name a few sources of regulations of guns and ammunition: the Internal Revenue Code, including the National Firearms Act postal regulations restricting shipping of handguns; Federal explosive law; regulations for gunpowder and ammunition manufacturers; the Arms Export Control Act; the Commerce Department export regulations; the Department of Transportation regulations on ammunition explosives and hazardous material transport.

In keeping with explicit records that can be inspected by BATF, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, licensed dealers have to conduct a Federal criminal background check on their retail sales either directly by the FBI through its national instant criminal background check or through State systems that also use the NICS system. All retail gun buyers are screened to the best of the Government’s ability.

Additionally, the firearm industry has voluntary programs to promote safe gun storage and to help dealers avoid sales to potential illegal traffickers.

Manufacturers also have a time-honored tradition of acting responsibly to make their products more user-friendly so that they become aware of product defects.

In the past, Congress has found it necessary to protect other classes; for example, the light aircraft industry. Jim Inouye, a Senator from Oklahoma, moved that through the House and ultimately through the Senate, an industry that was killed, literally destroyed by frivolous lawsuits. Community health centers, same thing; the aviation industry; the medical implant makers; Amtrak—we have created a special exception for Amtrak—the computer industry members who are affected by Y2K. We took the nonsense out of the courts and put it where it belongs, into statutes with common sense that require personal accountability and responsibility.

Furthermore, Congress may enact litigation reform when lawsuits are affecting interstate commerce. In many of these lawsuits cities and individuals are trying to use the State court to restring the conduct of the firearms industry nationally, often contrary to state policies expressed through their own legislatures.

A single verdict in favor of an anti-gun plaintiff could bankrupt or regulate an entire segment of the economy—and of America’s national defense. It could be out of business, but most importantly, my right, Oklahomans’ right, all of America’s right to a guarantee of the second amendment to the Bill of Rights secured for them, for their ability to own and use firearms responsibly.

This bill will protect our national security. It will protect our constitutional rights. It will protect an industry that will provide a million jobs and will protect thousands of jobs. It also will ensure that people who have suffered a real injury from a real cause of action can be heard and taken seriously while law-abiding manufacturers and dealers of firearms may continue to serve the law-abiding citizens exercising their constitutionally guaranteed second amendment rights.

Mr. President, I thank you, and I note that this is quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, I just came from our Republican Senate cloakroom doing an interview on this important piece of legislation, and I thought that in the course of that interview there was an interesting comment made by the person on the other end of the line: Why are you doing this now? And I thought it would be important for me to put it in the appropriate context because there is a tremendous number of important issues before the U.S. Congress at this time that the American people and the highly committed people who are headed toward the end of the week. As the leader said a few moments ago, we are headed toward the August recess, which means Congress, in its traditional way, will take the month of August off for a long time and just as the Labor Day and for the August recess. But I do believe we should get it all done by late Friday night. But the leader also said we do have Saturday, and we can push our work done. By early afternoon today, we will be on S. 397, the Protection of Lawful Commerce in Firearms Act.

What I would like to do at this time is read a letter that we sent to Majority Leader Frist that we think sets the context that the Senate really can only do what the American people are demanding that we do. That is exactly what the leader is doing at this moment.

Last night, I signed, and I think the President signed, a document that we are very proud of that has been years in coming to the desk of the President of the United States, and now comes to this President because of his very clear urging, and that is the national energy policy.

Yes, the Congress of the United States has worked on a national energy policy, and we believe we can take up the conference report now on the floor of the Senate during the remainder of the week before we recess, and we hope that all of our colleagues would let us step back for a moment from this legislation to do so before we move to final passage.

It is very possible that we could also do the transportation conference report. We have extended the legal authority under the Transportation Act 11 times while the Senate and the House did its work, and I hope we would not extend it anymore. So, clearly, there are multiple things we can do, and I trust we will do, before we adjourn for the August recess. But I think the President and I would agree that when our President came to town, nearly 6 years ago—and I remember President George W. Bush saying the following: While I spent a good deal of the campaign time talking about education and a variety of other issues, I am here now to talk about national energy. And the first thing I am going to do as a President-elect and as a Senator in President Frist is to name a task force headed by the Vice President to recommend to the Congress the development of a national comprehensive energy policy.

He did, but we did not. He pushed, but we could not produce. He continued to push, and now we have produced, and finally we have a comprehensive energy policy before us. So I would say to those listening and to all of our colleagues, I hope we can dribble a ball and chew gum at the same time and get all of this work done both before the August recess. If reasonable heads prevail, we should get it all done by late Friday night. But the leader also said we do have Saturday, and we can push our work done. By early afternoon today, we will be on S. 397, the Protection of Lawful Commerce in Firearms Act.

In the early days of World War II, President Franklin Roosevelt foresaw that America “must be the great arsenal of democracy.” Americans rose to that challenge, producing unprecedented quantities of arms during our Global War on Terror. In 2004–2005, the United States—the only major world power without a government firearms factory of its own—

I said, in earlier statements this morning, we are the only major world power where the Government does not own a firearms factory. They are all owned by private citizens—

which contracted to buy over 200,000 rifles, pistols, machine guns, and other small arms for our soldiers, sailors, airmen and Marines. In addition, the U.S. Army alone uses about 2 billion rounds of ammunition each year—about half of it made by private industry. Those guns and ammunition are made in the U.S. and provide good jobs for hardworking Americans.

Those gun manufacturing facilities and ammunition facilities are spread across the United States.

Unfortunately, our military supplies are in danger. Anti-gun activists have taken to this country to promote more restrictive gun control. The very same companies that arm our men and women on the
front line against terrorism have been sued all over the country, where plaintiffs blame them for the acts of criminals.

These lawsuits defy all the rules of traditional tort law. While many have been rejected in the court—

And that is many of the lawsuits, some 24-plus filed, about half of them now rejected.

Even more verdict for plaintiffs would risk irreparable harm to a vital defense industry.

These are some of the reasons I have co-sponsored S. 397, the Protection of Lawful Commerce in Arms Act. This bill would protect America’s small arms industry against these lawsuits, while allowing legitimate, recognized types of suits against companies that negligently or willfully produce, or against gun dealers who break the law.

I was very clear earlier today that S. 397 sets that out in clear fashion.

The letter goes on to say:

We urge you to help safeguard our “great arsenal of democracy” by bringing S. 397 to the Senate floor before the August recess, and working to pass it without any amendments that would jeopardize its speedy enactment into law.

That is why we are here today, because a substantial majority of the Senate has urged our leader to bring this important legislation to the floor. We have asked the Senate to be flexible, and the Senate has agreed. While we have legislation on the floor and conference reports on major bills pending, we wanted to come forward to be able to set aside the legislation and to deal with those, and I trust we will, at least three: conference report on energy, energy policy; a conference report on transportation, and a conference report on the Interior Appropriations bill, which has some critical veterans money in it that I and others have worked for over the last good number of weeks, and we hope all of that can be effectively accomplished before we complete our work by late Friday night or Saturday.

I think that full cooperation from all of our colleagues, we can get all of that legislation done in a timely amount of time.

Another question was asked of me a few moments ago by the person I did the interview with, who said, well, these are very big companies that make a lot of money and are you not protecting them a great deal?

Let me put that into the right context. I am not going to name names, but I will say that I know of at least three firearms companies that have around $100 million worth of sales a year apiece, not collectively but apiece.

They were comparing it in this interview with the tobacco industry. I said, Well, if we put these companies alone, they were selling $1.1 billion, $1.2 billion, some of them $2 billion industries in their collective value. So we are talking apples and oranges, an industry that is very limited in its capability that is now being sucked to death, and I think it is appropriate to recognize lawsuits to the tune of hundreds of thousands, if not millions, of dollars a year, in necessary legal defenses.

So that is why we have been very specific in the law. It is not the gun industry immunity bill. It is important that we say that and say it again because it does not protect firearms or ammunition manufacturers, sellers or trade associations from any lawsuits based on those weapons or the conduct.

The bill gives specific examples of lawsuits not prohibited. Let me repeat, not prohibited:

Product liability, in other words, a gun that misfires, that does damage to the operator of it, those definitions are clearly spelled out within the law. Negligence or negligent entrustment, breach of contract, lawsuits based on a violation of State and Federal law, it is very straightforward, and we think it is very clear.

The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal violence, and we know that.

Furthermore, it threatens the domestic industry that I think is critical, as I have mentioned earlier, to the national defense of this country.

It would be a tragedy, and I do not know of a soldier serving today or one who has served that would want to serve with a firearm at his or her side being made by a foreign manufacturer. It does not make sense whatsoever. Yet that is the end product of the effort that is under way today, to simply put firearms manufacturers out of business.

If they can be pursued overseas, then other forms of law can be used to block access to firearms or access to the importation of firearms from foreign countries. The argument would be foreign nations are attempting to flood the American consumer with a foreign product. I have heard the argument on the floor by those who have attempted to ban certain types of importation over the years.

It is an argument well spelled out and well used by many. Faulty as it may be, it is an argument that often times resonates to the American consumer. But when the American consumer finds out that they have been denied access to a quality U.S. product or that product does not exist, then the argument turns around.

That is why we are on the floor today. That is why we are dealing with this bill. I think it is very understandable that we have arrived at a unanimous consent agreement that brings us on to the bill by 2 this afternoon. I hope at that time many of my colleagues who are cosponsors would join with me so that we can move this legislation expeditiously through the Senate. I know there are several amendments that will probably be brought to the floor, most of them destructive to the intent of the bill, marginalizing it at best. As a result, I urge members of the Senate to carefully review the pending legislation on the S. 397, to be able to pass it from the Senate as clean as possible, hopefully, very clean, so the House can act on it immediately and move it to our President’s desk.

That is the intent. As we move through S. 397 over the course of today and tomorrow, I trust we will also be able to deal with the conference report that I have mentioned that is extremely important for this country and for all of us to have prior to the August recess.

I see no other of my colleagues on this floor wishing to speak at this moment, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I take a moment to explain the effect of our proceeding to this gun bill. We are putting aside an important debate on national security and the need for our troops in a time of war. Last Friday I listed a number of the amendments that still were pending that would affect the National Guard and our Reserve troops and also provide additional kinds of protections for the service men and women. The decision by the Republican leadership was that we had spent enough time on the legislation, even though we chose to spend 2 weeks earlier in the year on the credit card industry and on bankruptcy and a similar amount of time on the class action legislation which benefited special interest groups. The credit card industry will profit about $6 billion more this year than last year because of the actions taken. We also spent time on the special interest legislation dealing with class actions. We spent the time on that, but we are not on the Defense authorization bill.

We had an important amendment on the whole policy of the administration in developing new nuclear weapons which has profound implications in terms of the issues of nuclear proliferation and nuclear safety. We looked forward to having an opportunity to debate that issue. That was put aside by the Republican leadership because they were concerned about a provision that had been introduced to the Defense authorization bill last Thursday. Senator LEVIN, Senator REED, Senator ROCKEY and I introduced an amendment to create an independent commission to examine the administration’s policy surrounding the detention and interrogation of detainees as an amendment to the Defense authorization bill.

The response of the White House was instant and negative. The President announced he would veto the Defense authorization bill, all $442 billion of it, if it included any provisions to restrict the actions taken by the White House or creating a commission to investigate detainee operations. No other response could have demonstrated so
clearly the urgent need to establish a commission than that this imperial White House considers itself immune from restraints by Congress on its powers no matter what the Constitution says.

It is appalling that the administration is so afraid of the truth that they are even willing to veto the Defense bill which includes billions of dollars for our troops, pay raises for our troops, and funds for armored humvees to protect our troops in Iraq. But the administration has already vetoed a bill based on accountability. It is not even pretended to pretend that problem does not exist, but that is how the President has responded to the flow of reports about abuses. Contrary to the protests of the administration, we do not have the answers we need. So far, we have had 12 separate so-called investigations of allegations, but not a single report names any administration officials accountable for abuses and harsh techniques. We need an investigation of the country's so-called rendition policy which sends detainees to other countries where torture is well known. We need answers about the administration's renditions of the interrogation policy, and we need an investigation of the coverup. They even stooped to claiming a request for full accounting is somehow a smear against our troops. The real smear is that the administration continues to prosecute only a few low-level offenders without holding accountable the higher-ups who laid the groundwork for all the abuses. The real dis-service to our troops and to our country is done by those who leave those who do not carry the name of the administration holding the bag while officials at the top are promoted and rewarded.

We need a commission independent of political influence to find the relevant facts, not just the facts that suit the purposes of the administration. With its willingness to conceal the truth, the administration will never tell the American people about this practice of rendition on its own. We need an independent commission to examine our policies and practices and make appropriate recommendations. The American people deserve to understand the choices made by this President and his administration.

In sum, our interrogation and detention policies need much more thorough review. In avoiding accountability, the administration has made it clear it won't accept responsibility for giving our Nation the clear answers it deserves. As Benjamin Franklin said, half a truth is often a great lie. Until now we have been fed half truths and cover-ups by the administration.

With the recent veto threat, the White House has declared war on any full and honest accounting of responsibility. The safety of our troops and our citizens depends on finding out the whole truth and acting on it. An independent commission of respected professionals with backgrounds in law and military policy and international relations is the only way we can learn the truth about what has happened so we can end the suppression and establish a policy for the future that is worthy of our Nation and worthy of our respect of all nations. Administration secrecy doesn't stop with their interrogation policy. This administration has a systematic disregard for oversight and openness. Government is intended to be “of the people, by the people, and for the people.” Democracy requires informed citizens, and to be informed, citizens need to have information about the government. Congress and the executive branch are supposed to be held accountable, so the American people know what is being done in their name. But under the Bush administration, openness and accountability have been replaced by secrecy and evasion of responsibility. The White House, conceal their actions from the American people, and refuse to hold officials accountable.

No one disputes the necessity of classifying information critical to protecting our national security—military operations, weapon designs, intelligence sources, and similar information. But in the post-9/11 world, the administration is making secrecy the norm and openness the exception. It has used the tragedy of 9/11 to classify unprecedented amounts of information. Material off-limits to the public has become so extensive that no other conclusion is possible. The Bush administration has a pervasive strategy to limit access to information in order to avoid independent evaluation of its actions by Americans whose job it is to observe and critique their government. When even Congressmen, journalists, and public interest groups complain about limits on access to information, we know the difficulties faced by ordinary Americans seeking information from their government.

At a hearing last August in the House Subcommittee on National Security, the Director of the Government's Information Security Oversight Office, J. William Leonard, testified that this is no secret--government classifies too much information. Too much classification unnecessarily impedes effective information sharing.

The Deputy Under Secretary of Defense for Counterintelligence and Security, Carol A. Haave, said that as much as half of all classified information doesn’t need to be classified. Last year, a record 15.6 million documents were classified by the Bush administration at a cost of $7.2 billion, many under newly invented categories with fewer requirements for classification.

The administration argues that all this secrecy is necessary to win the war on terrorism. But the 9/11 Commission Report said that too much government secrecy had hurt U.S. intelligence capability even before 9/11. “Secrecy stifles oversight, accountability, and information sharing,” says the report. They know from their own experience.

In July 2003, the 9/11 Commission’s co-chairmen, Thomas Kean and Lee Hamilton, complained publicly that the administration was failing to provide requested information.
In October 2003, the Commission had no choice, after repeated requests, but to subpoena records from the FAA.

In November 2003, after multiple requests, the Commission again had to subpoena information, this time from the Defense Department.

For the rest of that fall and spring, the administration repeatedly tried to deny access to presidential documents important to the Commission’s investigation, until public outcry grew loud enough to convince the administration otherwise.

Key members of the administration balked at testifying, until public opinion again swayed their stance.

And then, in an ironic twist, 28 pages of the 9/11 Commission Report itself was classified. So, is all this secrecy really about protecting us from the terrorists? Or is it just to avoid accountability?

This administration, once in office, wasted no time challenging those who balked at testifying, until public opinion again swayed their stance.

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In May 2001, Vice President CHENEY’s energy task force issued its report recommending more oil and gas drilling to solve our energy problems. In light of his former employment at Halliburton, the report was hardly impartial. But the public was habituated to such requests, even when the agencies had the right to withhold information. What was astonishing was the Vice President’s refusal to identify the people and groups who helped write the policy. In June 2001, the GAO, the nonpartisan, investigative arm of Congress, requested information on the energy task force, following reports that campaign contributors had special access while the public was shut out. GAO’s request was simple. It asked, “Who serves on this task force; what information is being presented to the task force and by whom is it being given; and the costs involved in the gathering of the facts.” Considering that the task force wrote the nation’s energy policy, it was not an unreasonable request.

The administration refused to comply, even though GAO’s request was not out of the ordinary. President CLINTON’s task forces on health care and on China trade relations were both investigated by GAO. The Clinton administration turned over detailed information on the participants and proceedings of the task forces.

But the Bush administration argued that GAO did not have the authority to conduct the investigation. For the first time in its 80-year history, GAO was forced to file suit against an administration to obtain requested information. But the court sided with the administration in Walker v. Cheney, and GAO’s investigative oversight authority was effectively reduced. Independent oversight is critically important when one party controls both Congress and the White House, and GAO is critical to that oversight.

On October 12, 2001, John Ashcroft wrote a memo outlining the Justice Department’s views on Freedom of Information Act requests. The memo set the tone for an administration hostile to such requests. It discouraged executive branch agencies from responding to Freedom of Information Act requests, even when the agencies had the option to respond. He basically reversed the longstanding policy of prior administration.

The Clinton administration policy, set forth by Attorney General Janet Reno, was that if a document could be released without harm, an agency should do so, even if there were technical grounds for withholding it. They knew that government openness was essential to an informed public.

When the Bush administration came to office, Attorney General Ashcroft disagreed—he wrote that if there is any technical ground for withholding a document under the Freedom of Information Act, an agency should withhold it. The Clinton policy had been “release if at all possible.” The Bush policy was “keep secret if at all possible.”

Why should the public know what the administration hid out of office? Why release documents that might be embarrassing to the White House or its friends in business?

Some organizations claim, based on their experience, that this obsession with secrecy even farther, and beyond that executive branch agencies are being told to withhold information until it is subpoenaed. Sean Moulton, a senior policy analyst at OMB Watch, argued that if there are documents the government doesn’t want to release but doesn’t have any legal basis for withholding, unless you’re willing to go to court, you’re not getting those documents.

Since the tragedy of September 11, this administration has effectively shut down inquiry after inquiry:

In November 2001, energy companies were planning a natural gas pipeline through the Blue Ridge Mountains of Virginia. Local citizens, led by former U.S. citizen Joseph McCormick, asked the Federal Energy Regulatory Commission for a map of the planned pipeline. These citizens weren’t being nosy—they wanted to know if a large new pipeline for natural gas would be going through their backyards. FERC denied the citizens’ request in the name of national security, even though this type of information had been public before 9/11. Clearly, national security concerns are legitimate. But without some basic location, how could these citizens defend their property? Joseph McCormick put it bluntly: “There certainly is a balance,” he said. “It’s about people’s right to use the information of an open society to protect their rights.”

In the fall of 2002, the chemical compound perchlorate was found in the water supply of Aberdeen, Maryland—near the Army’s famous Aberdeen Proving Ground. Perchlorate is a main ingredient of rocket fuel. It also stunts the metabolism and brain growth of newborns. A group of citizens organized, and worked with the Army to protect their drinking water from further contamination. But a few months later, the Army began censoring maps and information that would help determine which areas were contaminated, supposedly in the interest of national security—if citizens could find out what was going on at Aberdeen, then terrorists could find it too. The head of the citizens’ group was a 20-year-old veteran. His water well was only a mile and a half away from the proving ground. “It’s an abuse of power,” he said. “The government has to be transparent.”

Even Members of Congress have had to subpoena information in order to do their work. Last October, Congressmen CHRISTOPHER SHAYS and HENRY WAXMAN, the chairman and ranking Democrat on the House Government Reform Subcommittee on National Security, Emerging Threats and International Relations, asked for an audit of the Development Fund for Iraq. The copy they received had over 400 items blacked out. They had difficulty obtaining an unredacted report from the Defense Department that they had to prepare a subpoena. Once they finally received an unredacted copy, guess what had been blacked out? More than $218 million in charges from Halliburton. So far, no one has been held accountable.

It has now been 744 days without a White House investigation into the CIA leak case. It took 85 days for the administration to turn over evidence relating to the leak. Senate Republicans held 20 hearings on accusations against President Clinton and the Whitewater case, but they have held zero hearings on the leak of the covert identity of CIA agent Valerie Plame. So far, no one has been held accountable.

Last week, the Defense Department refused to cooperate with a federal judge’s order to release secret photographs and videotapes of prisoner abuse at Abu Ghraib. The ACLU had sued to obtain release of 87 photographs and 4 videotapes, but the administration filed sealed documents resisting the order. They are so obsessed with secrecy that they even make secret arguments to keep their secrets. So far, no one has been held accountable.

Also last week, the administration submitted an initial report on progress in training Iraqi security forces. It has been more than a year since the fall of Baghdad, and a reliable assessment of our progress in training those forces was long overdue. The key questions that the American people want to know are how many Iraqi security forces are capable of fighting on their own and what our military requirements will be the months ahead. But the answers remain classified. The American people deserve to know the facts about our policy. They want to know how long it will take to fully train the Iraqis in which the military mission will be completed. They can deal with the truth, and they deserve it.
No one wants to do anything that would help the insurgents. But the administration must do a better job of responding to the legitimate concerns of the American people. The administration still isn’t willing to be candid. It needs to shed some secrecy and answer these questions in good faith for the American people. The silence is deafening.

There is also a pattern of withholding information from members of Congress on the administration’s nominations. In 2003, Miguel Estrada was nominated for a Federal judgeship. We requested legal memoranda he wrote as Assistant Solicitor General, and we were repeatedly denied. In 2004, Alberto Gonzales was nominated to be Attorney General. We requested various memoranda he authorized on administration tortue policy, and we were repeatedly denied. Earlier this year, John Bolton was nominated to be Ambassador to the United Nations. We requested a report to determine if he acted appropriately in his previous job, and we have been repeatedly denied.

Instead of coming clean and providing the information to the Congress, we have been stonewalled. Our questions have gone unanswered. And now, the President appears to be poised to abuse his power further, rub salt in the wound, and send John Bolton to the United Nations anyway with a recess appointment of dubious constitutionality.

Now John Roberts has been nominated to a lifetime seat on the Supreme Court. We hope this nomination will not be another occasion for administration secrecy, but press accounts suggest otherwise. Even before we asked for any documents, the administration announced it will not release many of the memoranda written by John Roberts. The White House spokesman says they will claim attorney-client privilege, but many of the memos are vital to our consideration of Judge Roberts for the Supreme Court were written while he worked as a top political and policy official in the Solicitor General’s office. That office works for all the American people—not just the President. Attorney-client privilege clearly has never been a bar to providing the Senate with what it needs to process a nomination.

As we all know, no one is simply entitled to serve on the Supreme Court of the United States. One has to earn that right. And one earns that right by getting the support of the American people, reflected in the votes here in the United States Senate. And that is what the confirmation process is all about. We know that the administration is familiar with and aware of Judge Roberts’ positions on various issues. They have had a year to study it and had their associates talk with him and with those who worked with him. The real question is: Shouldn’t the American people have the opportunity to get the same kind of information so that they can form their own impression and so that the Senate can make a balanced, informed judgment and see whether or not the balance in the Supreme Court will be furthered? That is the issue and it appears that the administration is continuing to withhold important information that would permit the Congress the ability to do so.

Yes, the administration has consistently used the horror of 9/11 and its disdain of congressional oversight to get its way and avoid accountability. It consistently uses this secrecy to roll back the rights of average Americans. But even its best spin doctors can’t conceal some of the administration’s most flagrant abuses of power.

Last August, the New York Times reported that “health rules, environmental regulations, energy initiatives, worker-safety standards and product-safety disclosure policies have been modified in ways that often please business and industry leaders while dismaying interest groups representing consumers, workers, drivers, medical patients, the elderly and many others.” Often, this has been done in silence and near secrecy.

In 2000, Congress responded to the disclosure of defects in Firestone tires, which may have been responsible for as many as 270 deaths, by passing legislation which would make information on auto safety and related defects readily available. But in July 2003, the National Highway Traffic Safety Administration decided that reports of defects would cause “substantial competitive harm” to the auto industry, and exempted warranty claims and consumer complaints from the Freedom of Information Act. Clearly, that was another abuse of power that protects big business while putting the American public at greater risk.

In 2003, the administration knowingly withheld cost estimates of its Medicare prescription drug bill—one of the most important pieces of legislation that year. The estimates showed more costs over the longer term than the administration claimed, but the information was withheld because of fears that the actual numbers would persuade Members of Congress to vote no. Administration officials threatened to fire Chief Actuary Richard Foster “so fast his head would spin,” if he informed Congress of the real cost estimate. I wrote a letter to the administration on this subject, but they never responded to my questions.

In 2003, the Food and Drug Administration kept secret a report that children on antidepressants were twice as likely to be involved in suicide-related behavior. The FDA also prevented the author of the study—their expert on the issue—from presenting his findings to an FDA advisory committee. Dr. Joseph Glenmullen, a Harvard psychiatrist, said “Evidence that they’re suppressing a report like this is an outrage, given the public health and safety issues at stake.”

In 2004, the FDA decided not to issue an ambiguous warning when they had unambiguous data like this is an outrage.”

In November 2003, the White House told the Appropriations Committees in both Houses of Congress that it would only respond to requests for information if they were signed by the committee chairmen. In a time of one-party rule, this tactic made congressional oversight almost completely impossible.

In April 2004, the ranking member of the Environment and Public Works Committee, Senator JEFFORDS, was forced to place holds on several EPA nominees after the administration refused to respond to twelve outstanding information requests, including information on air pollution.

In August 2004, under pressure from the Department of Homeland Security, the FCC decided to make telephone service outage reports confidential, and exempt them from Freedom of Information Act requests. The FCC argued it was because companies could use competitors’ service outages in ad campaigns. You may not be able to make informed decisions on your phone company, but at least the company will be protected from nasty advertising.

In June, we discovered that the administration had blocked studies criticizing the Central American Free Trade Agreement—after it had already paid for them. In 2002, the Department of Labor hired the International Labor Rights Fund to back up its argument that Central American countries had improved on labor issues. The contractor found the opposite, and posted its results on its Web site in March 2004. The Labor Department ordered its removal from the website, banned its release, and barred the contractor’s employees from discussing the report.

The Department of Labor denied a Congressman’s request for the report under the Freedom of Information Act. These are the American people’s tax dollars. When the administration didn’t like an answer, it abused its power to avoid accountability—at their expense.

Yesterday, the Wall Street Journal disclosed yet another list of abuses in Iraq reconstruction. Ten billion dollars of no-bid contracts were awarded; $89 million was doled out without contracts at all; $9 billion is unaccounted for, and may have been embezzled. An official fired for incompetence was still receiving his paycheck. The contractors were paid twice for the same job. A third of all U.S. vehicles that Halliburton was paid to manage are unofficially owned; $8 billion is unaccounted for, and may have been embezzled. An official fired for incompetence was paid to manage them as well.

We as lawmakers are better able to represent our constituents when we have access to the critical information held by the executive branch. We must never forget who we work for—the American people. Congress is a co-equal branch of government, and we
have a duty to hold the administration accountable for its actions.

Mr. President, on the matter we have before the Senate at the present time, here we go again on the issue of legal immunity for the gun industry. Without such a limitation on liability, the gun industry has brought back this special interest, anti-law enforcement bill that strips away the rights of victims to go to court.

Why the urgency to take up this bill now? Gun-related mortality is a threat to this country’s future. Surely, the Republican leadership can take some time to address other priorities before attempting to give a free pass to the gun industry. Why aren’t we completing our work on the Defense authorization bill? That is what was before the Senate. Why have we displaced a full and fair debate on the issue of the Defense authorization bill—which has so many provisions in there concerning our fighting men and women in Iraq and abroad—by the gun lobby?—in order to consider special interest legislation?

That is what is before the Senate, and that is what we are considering at the present time, as a result of the Republican leadership’s urgency. Surely, the Senate can do more for our citizens than rush to pass unprecedented special interest legislation. We can and should be acting to meet our real challenges.

Last year, the Federal Government recalled a water pistol, the Super Soaker, just a few days before the assault weapons ban expired. America does more to regulate the safety of toy guns than real guns, and it is a national disgrace. The gun industry has worked hard to avoid Federal consumer safety regulation. Where are our priorities? Where is the logic in passing a bill that makes it harder to sue for harm caused by real guns than harm caused by a plastic toy gun?

The gun industry has conspicuously failed to use technology to make guns safer. It has attempted to insulate itself from its distributors and dealers, once guns leave the factory. Under this bill, it will not even matter if the guns are stolen by factory employees and snuck out of the factory in the middle of the night.

The overwhelming majority of Americans believe gun dealers and gun manufacturers should be held accountable for their irresponsible conduct, similar to other industries. Cities, counties, and States incur billions of dollars in costs each year as a result of gun violence. Studies estimate that the public cost of firearm-related injuries is over $1 million for each shooting victim. Yet this bill would take a fierce toll and dismiss even pending cases where communities are trying to get relief.

This bill would bar the legal rights of hard-working law enforcement officers, such as25 LAPD officers Lemongello. These two police officers from Orange, NJ, were seriously wounded in a shootout with a burglarly suspect. The gun used by the suspect was one of 12 guns sold by a West Virginia pawnshop to an obvious straw purchaser for an illegal gun trafficker. Fortunately for the officers, this bill did not become law last year, and their case was able to proceed.

Recently, Officer Lemongello was able to obtain a $1 million settlement. Significantly, the settlement required the dealer and other area pawnshops to adopt safer practices. These reforms go beyond the requirements of current law and are not imposed by any manufacturers or distributors. This is not about money. This is about public safety, and I commend these brave officers for their courageous battle to change the system.

It is clear what will happen if Congress gives the gun industry this unprecedented legal immunity, on top of its existing exemption from Federal consumer safety regulations. Guns will be more dangerous. Gun dealers will be more irresponsible. More guns will be legally available to terrorists and criminals. There will be more shootings and more dead children.

The Nation’s response to this death toll has been unacceptable. Yet, year after year, Congress gives the gun industry one more chance, a new approach to regulating guns. How can we justify this neglect? How can we continue to ignore the vast discrepancy in gun deaths in the United States compared to other nations? How can we possibly justify this effort to give the gun industry even greater protection for irresponsible behavior?

Mr. President, this bill is nothing short of Congress aiding and abetting the provision of guns to criminals. It takes the gun industry off the hook when their guns are sold to the wrong purchaser for an illegal gun trafficker. It is wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I come to the floor to speak in opposition to the motion to proceed on the gun liability bill.

Before I begin, I want to say I find it incongruous that we had the Defense Authorization bill up, an important bill—we were about to consider some important amendments affecting enemy combatants and detainees, I think very important—and here we go again on the cusp of yet another NRA victory.

Simply put, we are considering legislation that would ensure that it is not in the financial interests of gun manufacturers or sellers to take reasonable care in administering their business. We are removing the incentives of the tort system to encourage responsible behavior. No longer will those incentives to responsible behavior be present.

Let me be clear, if this bill is approved, it will not be a victory for law-abiding gun owners who might someday benefit from the ability to sue a manufacturer or dealer for their negligent conduct. No, this will be a victory for those who have turned the NRA into a political powerhouse, unconcerned with the rights of a majority of Americans who want prudent controls over firearms and who want to maintain their basic legal right in our civil law system.

Now, I do not support meritless lawsuits against the gun industry. I do not think anyone does. It is my belief gun manufacturers and dealers should be held accountable for irresponsible marketing and distribution practices, as anyone else would be, particularly when these practices may cause guns to fall into the hands of criminals, juveniles or mentally ill people.

This legislation has one simple purpose: to prevent lawsuits from those harmed by gun violence as a result of the wrongful conduct of others. These include lawsuits filed by cities and
counties responding to crimes often committed using guns that flood the illegal market, with the full knowledge of the distributors that the legal market could not possibly be absorbing so many of these weapons—that is why so many mayors have written strongly against this bill and against any legislation that would create a special area of law for firearms. That is why today so many members and victims of violent crimes and their families who are injured or killed as a result of gun violence facilitated by the negligence of gun manufacturers and sellers like Kahr Arms will make every effort not to hire drug addicts to sell guns to criminals. That is not going to make a difference.

This issue is not an abstract one. The bill is going to hurt real people—victims not only of criminal misuse by a well-designed firearm, but victims of guns that have been marketed in ways which, quite frankly, should be illegal.

Essentially, this bill prohibits any civil liability lawsuit from being filed against the gun industry for damages resulting from the criminal or unlawful misuse of a gun by a third party, with a number of exceptions.

In doing so, the bill effectively re-writes traditional principles of liability law which generally hold that persons and companies may be liable for their negligence, even if others are liable and would essentially give the gun industry blanket immunity from civil liability cases of this type, an immunity no other industry in America has today. This is truly a remarkable aspect of the legislation. It is a radical new departure from our Nation’s laws and the principles of federalism.

The bill does allow certain cases to move forward, as its supporters have pointed out, but these cases can proceed only on the narrowest of circumstances. Countless experts have now said that this bill would stop virtually all of the suits against gun dealers and manufacturers filed to date which are based on distribution practice, many of which are vital to changing how the distributors that the legal market flooded with unmarked guns to be sold to criminals. No other industry enjoys or has ever enjoyed the immunity from civil liability cases of this type, an immunity no other industry in America right now. The only avenue of accountability left is the courtroom. This bill attempts to slam the courtroom door in the face of those who would hold the industry responsible for its actions.

We ought to hold the industry responsible for taking the proper precautions to ensure law-abiding citizens are able to obtain the guns they choose while criminals and other prohibited individuals are not.

Let me read from a letter that was sent by more than 50 full professors from law schools all across this Nation, from the University of Michigan School of Law, UCLA Law School, the University of Oregon School of Law, Indiana University School of Law, Harvard Law School, Syracuse University College of Law, Brooklyn Law School, Georgetown University Law Center, Lewis and Clark Law School, Roger Williams University School of Law, Northwestern School of Law, University of Chicago Law School, William Mitchell College of Law, University of Colorado School of Law, Duke Law School, Albany Law School, University of Connecticut School of Law, Houston Law Center, Widener University School of Law, Rutgers, Tulane, Boston, Albany, Temple University Beasley School of Law, Case Western Reserve University School of Law, Cornell Law School, Salmon P. Chase College of Law, Northern Kentucky University, NYU School of Law, The George Washington University School of Law, Boston College Law School, Tulane University Law School, Columbia Law School, New York Law School, University of Alabama Law School, Emory University School of Law, University of California Boalt School of Law, and on and on.

Let me tell you what they say. I will read parts of it. They have reviewed this bill, S. 397 . . . would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the only industry in America that would be free utterly to disregard the risk, no matter how high or foreseeable, that their conduct

The judge in Washington State, presiding over the case brought by the DC area sniper victims—the case where a sniper lay in the trunk of a car with a hole punched through the trunk, went to different gasoline stations, schools, parks, and stores, and simply fired at people, indiscriminately killing them—has ruled twice that the dealer of the gun used in the most notorious sniper case in America, the sniper of the, Bull's Eye Shooters Supply, and its manufacturer, Bushmaster Firearms, may be liable in negligence for enabling the snipers to obtain their weapon. But even with the new modifications of this bill, the case against the gun dealer who sold that gun. He didn't report it until very late. He allowed the snipers to get the gun. Now we are passing a law to prevent the victims from suing under civil liability. No where else in the law does this concept exist in this form. It is a special carve-out for the DC sniper gun manufacturer and gun seller.

In another case, a Massachusetts court has ruled that gun manufacturer Kahr Arms may be liable for negligently hiring drug-addicted criminals. In fact, that court found the plant door with unmarked guns to be sold to criminals. But with these proposed changes, the case against Kahr Arms would be dismissed. A case would be dismissed where a gun manufacturer negligently hired drug-addicted criminals and let them go out the plant door with unmarked guns to be sold to criminals. That is what this does.

This conduct, though outrageous, violated no law—negligent, yes; criminal, no. Contrary to current law, this bill allows judges and juries to apportion blame and damages. This bill would bar any damages against a manufacturer if another party was liable due to a criminal act.

Why should firearms get special treatment? In our society, we hold manufacturers liable for the damage their negligence causes. We do this across the board for every industry, such as the automobile industry if they build a car that is unsafe or if they are negligent putting it together. Lawsuits filed against the gun industry provide a way for those harmed to seek justice from the damages and destruction caused by firearms. Just as important, they create incentives to reform practices proven to be dangerous. I will bet Kahr Arms will make every effort not to hire drug addicts to sell guns to criminals. If that case is dismissed, they can hire them. They can sell to criminals. That is not going to make a difference.

When this bill was introduced in the last Congress and again in this Congress, its supporters spoke about the need to protect the industry from frivolous lawsuits and the need to protect the industry from the potential loss of jobs brought on by future lawsuits. These claims are unfounded. This bill is simply the latest attempt of the gun lobby to evade industry accountability. The suits against the industry come in varying forms, but they all have one goal in common—forcing the firearms industry to become more responsible. What is wrong with that?

Under the principle of common law, individuals and industries have a duty to act responsibly. What is special about the gun industry that they should be exempt from this most basic of civil responsibilities? Answer: Nothing. This is an industry that is less accountable under law than any other in America right now. The only avenue of accountability left is the courtroom. This bill attempts to slam the courtroom door in the face of those who would hold the industry responsible for its actions.

We ought to hold the industry responsible for taking the proper precautions to ensure law-abiding citizens are able to obtain the guns they choose while criminals and other prohibited individuals are not.
might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike other businesses or individuals, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. And they could engage in that conduct persistently, even with the specific intent of profiting from the sales of guns that are foreseeably headed to criminal hands.

They could engage in the conduct in an unlimited way and profit from the sales of guns that are foreseeably headed for criminal hands.

Under this bill, a firearms dealer, distributor or manufacturer could park an unguarded open pickup truck full of loaded assault weapons on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm.

Mr. President, this is what we are doing. This isn’t just my view, this is the view of more than 50 professors of law and professors of public welfare, as more than 50 professors of public welfare?

I say to you we do not protect the basic rights as American citizens to prove that action. That is what I think is really despicable—all because of the power of one lobby.

Again, it goes on to say:

A firearms dealer, in most states, could sell firearms to an individual every day, even after the dealer is informed that these guns are being used in crime—even, say, the same violent street gang.

That is a direct quote. So you are facilitating a situation where somebody could sell a hundred guns a day to a street gang and have no liability for that action. That is what I think is really despicable—all because of the power of one lobby.

Again, it goes on to say:

It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(a)(1). Those exceptions, however, are in fact quite narrow and would give those in the firearm industry few refunds to the risks of foreseeable third party misconduct.

One exception, for example, would purport to protect gun makers and distributors from liability. That clause is as follows: ‘The Bill goes on, however, to define “negligent entrustment” extremely narrowly.

The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct.

So when somebody comes to the floor and argues this bill provide for negligent entrustment, don’t believe it. It is so limited that it doesn’t cover the whole field of those who handle firearms.

And then it goes on to say:

Even as the sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause grossly negligent entrustment. The exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals, negligent handling of firearms, lack of security, or any of a myriad of potentially negligent acts.

Another exception would leave open the possibility of liability for statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a small area of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need to create a new cause of law to do this. Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head, and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault weapons on a street corner, or any range of conduct similar to the same activity by an individual, under this bill there could be no tort liability.

That is what this bill is opening up.

Again, this represents a radical departure from traditional tort principles.

Again, this isn’t just me saying this; this is more than 50 law professors from almost 50 different law schools.

As currently drafted, this bill would not simply create a new form of tort liability, as has been suggested, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort law. It provides to firearm makers and distributors a literally unprecedented form of tort immunity not enjoyed, or even dreamed of, by any other industry.

Mr. President, I know the motion to proceed will pass. I also know that what is being engaged upon is the most stringent test of good American I have ever seen take place in this body to prevent amendments from being offered once cloture is invoked, which is going on. If we are going to do the people it represents an enormous harm. They are going to protect the most powerful lobby in the United States and open millions of Americans to egregious injury from negligent practices by distributors and sellers of firearms in this country.

That is not what we were elected to do. No one in this body was elected to be the Senator from the National Rifle Association. Although they have a point of view, and although this point of view is popular in many places, the question is, do we still protect the public welfare?

I say to you we do not protect the public welfare, as more than 50 professors of law have pointed out.

Additionally, I will put into the Record a letter of opposition from law enforcement officers and their families, to seek redress against irresponsible gun dealers and manufacturers.

The impact of this bill on the law enforcement community is well illustrated by the letter brought by former New Jersey police officers Ken McGuire and David Lemongello. On January 12, 2001, McGuire and Lemongello were shot in the line of duty with a firearm sold and used negligently by a Virginia dealer. The dealer had sold the gun, along with 11 other handguns, in a cash sale to a straw buyer for a gun trafficker. In June 2004, the officers obtained a $1 million settlement from the dealer. The dealer, as well as two other area pawning, also have implemented safer practices to prevent sales to traffickers, including big new policy of ending large-volume sales of handguns. These reforms go beyond the requirements of current law and are not imposed by any manufacturers or distributors.

If immunity for the gun industry had been enacted, the officers’ case would have been thrown out of court and they would have been denied. Police officers like Ken McGuire and Dave Lemongello whose lives on the line every day to protect the public. Instead of honoring them for their service, legislation granting immunity to the gun industry would deprive them of their basic rights as American citizens to prove their case in a court of law. We stand with officers McGuire and Lemongello in urging you to oppose such legislation.

Sincerely,

International Brotherhood of Police Officers (AFL-CIO Police union); Major Cities Chiefs Association (Represents our nation’s largest police departments); National Black Police Association (Nationwide organization with more than 35,000 members); Hispanic American Police Command Officers Association (Serving command level staff and federal agents); National Latino Peace Officers Association; The Police Foundation (A private, nonprofit research institution); The Peace Officers Foundation; Crime in America; Rhode Island State Association of Chiefs of Police; Maine Chiefs of Police Association. Departments listed for identification purposes only:

Sergeant Moises Agasto, Pompton Lakes Police Dept. (NJ); Sheriff David Alexander, Summit County Sheriff’s Office (OH); Sheriff Thomas L. Altieri, Trumbull County Sheriff’s Office (OH); Detective Anthony Arnone, Falls Church Police Dept. (VA); Chief Ron Atstupenas, Summit County Sheriff’s Office (CA); Special Agent (Ret) Ronald J. Brogan, Drug Enforcement Agency; Chief Thomas V. Brownell, Amsterdam Police Dept. (NY).

Chief (Ret) John H. Cese, Wilmington Police Dept. (NC); Chief Michael Childs, Portland Police Dept. (ME); Chief William City, Oklahoma Police Dept. (OK); Chief Kenneth V. Collins,
J. Vince, Jr., Crime Gun Analysis Branch, ATF (VA); Chief Garnett F. Watson Jr., Gary Police Dept. (IN); Hubert Williams, President, The Police Foundation (NY); and Ret. Captain Greg Wurm, St. Louis Police Leadership Organization, St. Louis Police Dept. (MO).

Mrs. FEINSTEIN. This letter of opposition details the case that Senator Kennedy mentioned, involving two law enforcement officers from Orange, NJ, and points out that that case would have been thrown out of court. It is signed by numerous chiefs of police and major law entities.

The American Bar Association states in their letter of opposition:

S. 397 would preempt State substantive legal standards for most negligence and product liability actions for this one industry, abrogating State law in cases in which the defendant is a gun manufacturer, gun seller, or gun trade association, and would insulate this new class of protected defendants from almost all ordinary civil liability actions.

It goes on to say:

There is no evidence that Federal legislation is needed or justified. There is no hearing record in Congress or other evidence to contradict the fact that the State courts are handling their responsibilities competently in this area of the law.

So all those people who believe in States rights are taking States rights away for the National Rifle Association.

The American Bar Association also says:

There is no data of any kind to support claims made by the industry that it is incurring extraordinary costs due to litigation, that it faces a significant number of suits, or that current State law is in any way inadequate. The Senate has not examined the underlying claims of the industry about State tort cases, choosing not to hold a single hearing on S. 397 or its predecessor bills in the two previous Congresses.

That is amazing to me. It continues:

Proponents of this legislation cannot, in fact, point to a single court decision, final judgment, or award that has been paid out that supports their claims. All evidence points to the conclusion that State legislatures and State courts have been and are actively exercising their responsibilities in this area of law with little apparent difficulty.

This letter goes on and again concludes this is going to be the only industry in the United States with this kind of immunity. There is no crisis that merits a bill in which there is no hearing record that documents the need. This really worries me.

Maybe I am biased because I have been a mayor, because I have seen what happens on the streets. I have seen how firearms have grown much more sophisticated. Their killing power is greatly enhanced. The copycat, or the civilian version, of the .50 cal...the .50 caliber weapon...one can send a bullet as large as my hand from Arlington Cemetery into the Capitol. Don’t you think how those weapons are sold and distributed should prevent negligence? I do.

I guess in all my years in this body I have never been more disillusioned about how we proceed or why we proceed. We have the PATRIOT Act that is ready to come to the floor, and we are doing this. We have an asbestos bill that is ready to come to the floor, and we are doing this. I am ranking on Military Construction appropriations. We have passed out a military construction bill with $70 billion in it for veterans benefits, and we are doing this. There are a number of other appropriations bills that are ready for floor action. The conference on the Energy bill just concluded, and we are doing this. There is no hearing record for the previous two Congresses. More than 50 law professors point out this is a giveaway to a special industry that no other industry enjoys in the United States of America, and 30,000 people a year are killed with firearms in this country. I find it extraordinarily disillusioning.

Mr. CORNYN. Mr. President, I would ask Senator Kennedy to yield the floor.

Mr. Speaker. Mr. President, I would ask Sergeant at Arms to remove the Member from the floor.
He provided Judge Roberts a copy of these questions last week when the two of them met and has stated that he will take “responsibility to make sure that those questions are answered.”

Any of our colleagues can, of course, ask whatever questions they want, but the notion that Judge Roberts puts his confirmation at risk if he does not answer the questions on the list from the Senator from New York is contrary to the traditional practice of this body. Nearly every single one of the questions involves an issue that is likely to come before the Supreme Court during Justice Roberts’s tenure. Every single Justice confirmed in recent memory has declined to answer questions of the sort contained on that list.

As Justice Ginsburg has noted:

In accord with longstanding norm, every member of the current Supreme Court declined to furnish such information to the Senate.

Every member of the Court has declined to answer such questions because it has long been understood that forcing nominees to take sides on issues while under oath compromises their ability to rule impartially in cases presenting those issues once they sit on the Court.

Judges are supposed to decide cases after hearing the evidence presented by the parties involved and the arguments presented by their lawyers. They are supposed to keep an open and impartial mind.

As Justice Ginsburg has also noted, “the line each [Justice] drew in response to preconfirmation questioning is . . . crucial to the health of the Federal Judiciary.”

Judges in our system are like umpires in a baseball game. They are not supposed to take sides before the game has begun. Judges are not, for example, supposed to pledge to the Senate that they will be “on the side of labor” or “on the side of corporations” once confirmed to the bench. We should not demand of judges that they be biased on behalf of a particular party before they have even gotten to the bench and heard the facts and the arguments of counsel.

The only side that a judge should be on is on the side of the law. Indeed, that is the oath that each of them take when they are sworn into office. Sometimes they will win in court, and sometimes they should lose. Sometimes labor should win in court, and sometimes labor should lose. But it depends on the facts of the case and on the law that applies to those facts. Any judge worth their salt would decide to make a commitment ahead of time about how that hypothetical controversy would come out, not knowing what those facts are or how the question would be presented.

The Senator from New York has said that his questions do not threaten Judge Roberts’s impartiality because he is not asking about specific cases that are already pending before the Supreme Court. He acknowledges that asking questions about those cases—in other words, cases that are actually pending—would be inappropriate. But I would ask my colleague to review, as I have, the Supreme Court’s pending cases for the session set to begin in October because it clearly shows that this proposed list of questions would force Judge Roberts to prejudge the very pending cases that the Senator has said should be off limits.

Take, for example, the question of whether Judge Roberts “believes Roe v. Wade was correctly decided.” That is one of the Senator’s questions. The Senator has said specifically that this is a “question that should be answered.”

Demanding that Judge Roberts answer questions about Roe v. Wade will undoubtedly force him to prejudge a case that is currently pending on the Court’s docket. On November 30, the Supreme Court will hear arguments in Ayotte v. Planned Parenthood, a case involving the constitutionality of a New Hampshire law requiring a minor to notify her parents before having an abortion.

It is nearly certain that some party in that litigation, perhaps even an amicus party, will ask the Court to revisit or overturn Roe v. Wade because one party does so in nearly every abortion case that reaches the U.S. Supreme Court.

Thus, whether Roe v. Wade should be overturned is not only an issue likely to come before the Court during Judge Roberts’s tenure, it is already before the Court.

Accordingly, demanding an answer to a question about Roe v. Wade will force Judge Roberts to prejudge at least one of the issues in the Ayotte case, and, no doubt, many others while he is on the bench.

Perhaps an even better example is the Senator’s question about whether “the Americans with Disabilities Act requires States to be accessible to the disabled . . . or [whether] sovereign immunity exempts the States?” Again, on November 9, the Supreme Court is scheduled to hear a case called Goodman v. Georgia, a case involving a suit by a disabled prisoner against the State of Georgia. The only question in that case is whether the Americans with Disabilities Act requires States to make prisons accessible to the disabled. Again, this is precisely the question that the Senator warned Judge Roberts that he would not have to answer but which, in fact, he is now being asked to answer.

It is clear then that the questions proposed by the Senator from New York are not only asked at the wrong time but are designed to make that time inappropriate. Thus, surely all of us can agree in this Chamber that Judge Roberts should be permitted to decline to answer questions that the Senator from New York has said he will ask him and others like those questions.

But once it is acknowledged that Judge Roberts should be permitted to decline to answer the questions involving issues already pending before the Supreme Court, it becomes clear that Judge Roberts should be permitted to decline the rest of the questions proposed by the Senator from New York.

There are literally hundreds of cases at this very moment in lower Federal courts raising virtually all of the questions posed by the Senator from New York. Judge Roberts should not be forced to guess which one will or will not one day make their way to the High Court. This is why the Canons of Judicial Ethics counsel judges against answering questions about issues that are not only already before the Court, but also those that are likely to come before the Court.

Any case pending in the lower courts meets this definition because it could be and, indeed, many will be appealed to the U.S. Supreme Court.

Indeed, the danger of demanding that Judge Roberts answer such questions, even though some may not now be pending before the Court, is clear from an event involving one of the sitting Justices, Justice Scalia.

Two years ago, after delivering a speech, Justice Scalia was asked whether he thought the phrase “under God”—that is the reference in the Pledge of Allegiance—was constitutional. There was not at that time any case involving that question before the Court, so Justice Scalia answered the question. But there was, as it turns out, a case involving that precise question pending before a lower Federal court and, as we all know, that case eventually made its way to the Supreme Court. As we also know, Justice Scalia was then forced to recuse himself from hearing that case because the rules of ethics prevent judges from publicly commenting on pending or impending cases.

We should not force Judge Roberts to choose between confirmation and recusal. If Judge Roberts is forced to recuse himself in all of the cases, all of the issues on the Senator’s list, then the Supreme Court will be left short-handed for much of its tenure.

The Senator from New York says that his list includes some of the most important questions of the day, and that may well be true. But surely we can ask the Supreme Court to answer those important questions in those cases as they are presented.

Judge Roberts should be permitted to do what we have always permitted nominees to do, and that is to decline to answer questions that might call into question his impartiality at a later date. We have always respected the right of nominees to decline to answer questions that make them feel as though their ability to do their job is compromised. That is one of the interests of a value that we all hold dear, and that is the independence of the judiciary.
I hope and expect that we will not break that longstanding tradition with Judge Roberts.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. Murkowski). The roll call will now be taken.

The legislative clerk proceeded to call the roll.

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

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

Mr. Frist. Madam President, the current Congress has taken a stand against frivolous lawsuits, and we have done so in a number of ways as we paint a portrait of the fact that frivolous lawsuits today are not in the interest of the American people. We addressed it in class action reform. We addressed it to a degree with bankruptcy reform, returning to personal responsibility whether these guns. This firearm maker I visited was in a rural area with not that many employees. They were putting together shotguns which many of us use to hunt over the course of the year. Right now my favorite avocation is taking my sons hunting on the weekend, to be together and share fellowship.

I mention that because when one tours these gun manufacturing facilities, they realize that frivolous lawsuits drive people out of the business, which is little recognized, and it has been mentioned on the Senate floor, but I wanted to mention it again because I am sure others will come forward because the problem is so real, it is so apparent, and that is that America's only two parts: companies that try to equip our soldiers and our law enforcement officers with the arms they need to protect us or to fight for our freedom. The guns our police officers and soldiers carry are made in the United States by hard-working Americans.

The main manufacturer of guns in my home State, just as one example, supplies important small arms to the military. So far, this middle Tennessee company has not been sued. In fact, Tennessee passed some liability protections back in 1999. But if they are sued and put out of business, the military would lose a critically important supplier, and 70 Tennesseans for this one company, small employer, would lose their jobs.

We all agree that guns need to be kept out of the hands of criminals, and that is why we have innumerable, countless laws and regulations to stop illegal gun sales. But we also cannot let frivolous lawsuits strip our police officers and our soldiers of the guns they need to protect us. We cannot allow unfair litigation to cripple our national security. Our sympathies always first and foremost go to crime victims and families, and no one in any way deserves to be harmed by a criminal wielding any kind of a weapon, be it a gun or a knife or anything else. But we have to place the blame where it belongs, not on the people working in that factory I visited that makes these firearms. We need to place it at the feet of the violent criminals themselves, those who commit the crimes and threaten our communities. They are the ones who should be held accountable. Blaming gun manufacturers misses the real problem. It punishes law-abiding owners and undermines our constitutionally protected rights. Even if litigation managed to bankrupt law-abiding gun manufacturers, it is not going to stop the criminals from getting guns elsewhere.

So I urge my colleagues to help stop frivolous gun litigation. We can accomplish that by allowing this legislation first to come to the floor and then passing this legislation. A vote for reform is a vote for security, and a vote for reform is a vote for common sense. The PRESIDING OFFICER. The majority whip.

Mr. McConnell. Madam President, I ask unanimous consent that Judge John Roberts to be the next Justice of the Supreme Court of the United States. As we are beginning to learn, President has selected one of the foremost legal minds of his generation.

Many of my colleagues have already spoken Judge Roberts' praises on...
As we know, the ACLU takes consistently liberal positions on high-profile issues, positions that many Americans strongly disagree with. I respect that. I do not often agree with the ACLU, but its members believe strongly, and they fight for their beliefs. There is certainly nothing but admiration we can have for that.

During Justice Ginsburg’s tenure as a general counsel and a member of its board, the ACLU, for example, opposed restrictions on pornography. Yet even though she developed controversial policy positions, the Senate did not attribute them to Justice Ginsburg, let alone disqualify her from service on the Supreme Court because of them.

In addition, this country values a healthy “market-place of ideas.” So, the Senate did not block Justice Ginsburg’s nomination because she made controversial and thought-provoking statements in her private capacity as a general counsel.

It is unfair to attribute to lawyers the personal views that had been expressed in their private capacities. Those thoughts ranged from suggesting a constitutional right to prostitution, to proposing abolishing “Mother’s Day” and “Father’s Day” in favor of a unisex “Parent’s Day.” Why did we not hold those views against her? Because we decided she had the integrity to apply the law fairly to each case, despite some rather, to put it mildly, provocative personal views that had been expressed over the years in her writing.

With both the Ginsburg and Breyer nominations, the Senate also continued its long-standing practice of respecting a nominee’s right not to disclose personal views or to answer questions that could prejudge cases or issues. Senators may ask a nominee whatever questions they want. But the nominee also has the right not to comment on matters the nominee feels could compromise their judicial independence.

For example, during his Supreme Court confirmation hearing in 1967, Thurgood Marshall, before the Senate Judiciary Committee, declined to answer a question regarding the Fifth Amendment. He explained:

I do not think you want me to be in a position of giving you a statement on the Fifth Amendment and then, if I am confirmed, sit on the Court and when a Fifth Amendment case comes up, I will have to disqualify myself.

Justice O’Connor, whom our Democratic colleagues have been citing so glowingly in the last few weeks, also demurred regarding questions she thought would compromise her independence, and did not hold that it was required to answer a question of what her view of a case that had already been decided, Roe v. Wade, and in explaining her position, she said:

I feel it is improper for me to endorse or criticize a decision which may well come back before the Court in one form or another and indeed appears to be coming back with some regularity in a variety of contexts. I do not think we have seen the end of that issue or perhaps the holding, that is the concern I have about expressing an endorsement or criticism of that holding.”

The Senate continued this practice with the Breyer and Ginsburg nominations. It did not require them to state their private views, or to prejudge matters before they had read one word of a brief or heard one word of oral argument.

Justice Breyer explained why he had to be careful about pre-committing to matters:

I do not want to predict or to commit myself on an open issue that I feel is going to come up in the Court. I am afraid of the real reasons. The first real reason is how often it is when we express ourselves casually or express ourselves without thorough briefing and thorough thought that I or some other judge might make a mistake. . . . The other reason, which is equally important, is . . . it is so important that the clients and the lawyers understand that judges are really open-minded.

The Senate respected Justice Breyer’s concerns about prejudging and confirmed him by an overwhelming 87–9 margin. This respect extended to that nominee and that is the concern I have.

For example, our late colleague, Senator Thurmond, asked Justice Breyer about Roe v. Wade, a case that had been decided 21 years earlier. Like Justice O’Connor, Justice Breyer declined to comment, stating:

The questions that you are putting to me are matters of how that basic right applies, where it applies, under what circumstances. And I do not think I should go into those for the reason that those are likely to be the subject of litigation in front of the Court.

Senator Thurmond respected Justice Breyer’s position, and did not hold against Justice Breyer his decision not to answer that question. Other Senators did the same on a host of issues. Justice Breyer also declined to give his personal views. He explained, “The reason that I hesitate to say what I think as a person as opposed to a judge is because down that road are a whole host of subjective beliefs, many of which I would try to abstract from.”

As result, he declined to give his personal views on whether the death penalty was cruel and unusual, what the scope of the exclusionary rule should be and whether he supported tort reform.

Justice Ginsburg also invoked her prerogative not to answer questions that could compromise her independence, and both sides of the aisle respected her decision. Indeed, Senator Biden, who was then chairman, encouraged her not to answer questions that would prejudice her position on a legal issue. He told her:

I will have statements that I made during the process read back to me. But I do think it is appropriate to point out, Judge, that you not only have a right to choose what you will answer and not answer, but in my view you should not answer a question of what your view will be on an issue that clearly is going to come before the Court in 50 different forms, probably, over your tenure on the Court.

Justice Ginsburg’s effort to remain unbiased—like Justices O’Connor and Breyer—included not commenting on cases that had already been decided.
For example, Justice Ginsburg was asked how she would have ruled in Rust v. Sullivan, an abortion case that had already been decided. She declined to answer, explaining her position with a metaphor of the slippery slope:

I sense that I am in the position of a skier at the top of a hill, because you are asking me how I would have voted in Rust v. Sullivan. Another member of this committee would like to know how I might vote in that case on the other side. I have resisted descending that slope, because once you ask me about this case, then you will ask me about another case that is over and done, and another and another. It is, of course, the nomination of Judge John Roberts. It appears to be happening with respect to the nomination of nominees, like Robert Bork and Henry Rehnquist, for whom there was no valid difference.

It troubles us on this side of the aisle, and it should trouble all Americans, try to deny these nominees up-or-down votes, the courtesy of an up-or-down vote on public lawfully in business because someone else sold you a gun and you committed a crime with it, was irresponsible in its use. I believe everybody should have their day in court for a legitimate grievance. But it is not legitimate, in my opinion, to sue someone who makes a gun lawfully, that is not defective, and that person is held responsible in court because some other person who bought the gun decides to misuse it, to commit a crime with it. That would ruin our economy. It would fundamentally change the responsibility concept that will change America.

The second amendment gives us a right to bear arms, but it is not unlimited. We have to have responsibility. We have to responsibly use that right. The idea that you could sue someone who is lawfully in business because someone else chooses to do something bad will destroy the way America works. It is a ridiculous concept.

Suing gun manufacturers for defective products is included in this bill. Everyone should stand behind what they make and put in the stream of commerce. That has not changed. The only thing that has changed is we are cutting off a line of legal reasoning that has extended to fast food now: “The reason I have health problems is because you served me food that was bad for me.” The bottom line is, if we go down this road, we are going to make our country uncompetitive in the 21st century, and we are going to rewrite the way America works—to our detriment.

The rule should be simple. If you make a lawful product and someone chooses to buy it and use it to misuse it, it is not your fault, it is theirs. You are not going to have your money taken because somebody else messed up. Madam President, $200 million in legal fees have already been incurred by gun manufacturers because of this line of reasoning. You win in America; you still lose.

If you want to make sure our country is secure in the future, let’s make sure people can manufacture arms in America. We are not dependent on foreign sources for arms for the public or the military. There is a lot at stake here. I enthusiastically support this limitation on what I think would be not only a frivolous lawsuit, but a dangerous concept that will change America for the worse.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I rise today to express my continued, strong support of S. 397, this bill.

As I outlined yesterday, this legislation is a necessary and vital response to the growing problem of unfounded lawsuits filed against gun manufacturers and sellers. These suits are being filed in no small part with the intention of trying to drive them out of business.

These lawsuits, citing deceptive marketing or some other pretext, continue to be filed in a number of States, and they continue to be filed in a way that will change American gun law.

These lawsuits claim that sellers give the false impression that gun ownership enhances personal safety or that sellers should know that certain guns will be used illegally. That is pure bunk. Let’s look at the truth.

The fact is that none of these lawsuits are aimed at the actual wrongdoer who kills or injures another with a gun—none. Instead, the lawsuits are focused on legitimate, law-abiding businesses.

It is this kind of rampant, race-to-sue mentality, that fuels our tort-happy, litigious culture. It has to stop.

In its Statement of Administration Policy, the White House has urged us to pass a clean bill, in order to ensure enactment of the legislation this year. Amendments that would delay enactment beyond this year are simply unacceptable.

The administration knows what we also know: This is a modest bill to help prevent the gun industry from a tidal wave of baseless lawsuits.

It is also highly relevant, I believe, that the leading suppliers of small
arms to our Armed Forces are the same targets of these reckless lawsuits: Betretta, Bushmaster, Remington, Smith & Wesson.

These are the companies we rely on for small arms for the military. But if the proliferation of lawsuits against manufacturers or sellers of guns continues, it could jeopardize the supplies we receive and need for our military. This bill does nothing more than prohibit—with five exceptions lawsuits against manufacturers or sellers of guns resulting from the criminal or unlawful misuse of nondefective guns and ammunition.

Let me repeat that: “resulting from the criminal or unlawful misuse” of nondefective guns and ammunition. This bill is not a license for the gun industry to act irresponsibly. If a manufacturer or seller does not operate entirely within Federal and State law, it is not entitled to the protection of this legislation.

I should also note that this bill carefully preserves the right of individuals to have their day in court with civil liability actions where negligence is truly an issue, or where there were knowing violations of laws on gun sales.

It is also noteworthy that in a recent poll by Moore Information Public Opinion Research, 79 percent of Americans do not believe that firearms manufacturers or suppliers should be held legally responsible for violence committed by armed criminals.

Seventy-nine percent! And in this poll, 71 percent of Democrats hold this view. So this should not be a partisan issue.

Let me just read a postcard from one of the thousands of people who have written me in support of this bill from Utah. This Utahn, from the city of Hyde Park, writes:

Dear Senator Hatch: Please give your full support to the gun manufacturer and seller for damages resulting from negligence resulting from the criminal or unlawful misuse of nondefective guns and ammunition.

These are the people I represent. I not only represent them, I am proud to be one of them. I am proud to help small businesses. And I am proud to help gun owners.

Let me just say a word about the precedent for this legislation. Congress has the power—and the duty—to prevent activists from abusing the courts to destroy interstate commerce.

We did this in the General Aviation Revitalization Act of 1994 where we protected manufacturers of small planes against personal injury lawsuits. That act superseded State law, as does the gun liability bill.

There are many other precedents for abusive lawsuits protection, including light aircraft manufacturers, food donors, charitable volunteers, medical implant manufacturers and makers of anti-terrorism technology, just to mention a few.

There is simply no reason the gun makers should have to continue to defend these types of meritless lawsuits. We must protect against the potential harm to interstate commerce. The gun industry has already had to bear over $200 million in defense costs thus far.

The bill provides carefully tailored protections for legitimate lawsuits, such as those where there are knowing violations of gun laws or those based on traditional grounds including negligent entrustment or breach of contract.

We simply should not force a lawful manufacturer or seller to be responsible for criminal and unlawful misuse of its product by others. We do not hold the manufacturers of matches responsible for arson for this same reason.

Individuals who misuse lawful products should be held responsible, not those who manufactured or sold the lawful products.

In closing, I leave my colleagues with one last thought. These abusive gun liability actions usurp the authority of the Congress and of State legislators. They are an attempt to force States to enact restrictions that have been widely rejected.

It is for this reason that many States have enacted statutes to prevent this type of litigation. Congress should do the same.

As with class action lawsuits, the few States that allow jackpot jurisdictions can create a disastrous economic effect across the entire country, and across an entire industry.

We cannot allow this to happen. We must stop these abusive lawsuits.

I urge my colleagues to vote for this important legislation.

Madam President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. I thank my colleague from Utah for relinquishing the rest of the time, and I join my colleague in strong support of S. 397, the gun liability bill. But I also wanted to address a topic that continues to draw much heat and discussion here on this floor and in the media. In the heat of political rhetoric over Iraq and the administration’s prosecution of the global war on terror, much has been lost and not all the facts are being presented in the matter. Unfortunately, some are quick to exploit the situation in Iraq and the global war on terror and, by extension, the brave men and women prosecuting these conflicts as cannon fodder in their attacks on the President from the media and others. These folks hope to undermine the administration’s credibility with a keen eye on gaining political advantage. However, in the end, those efforts serve only to undermine the noble efforts of our Armed Forces, whose vigilance and community who take the fight to the enemy every day. Most damning, however, is that we have yet to see those who strongly criticize the President’s policies present any comprehensive, workable or viable alternatives.

This kind of politicizing only serves to erode the morale of the men and women in the field who do the heavy lifting. It is nothing short of shameful. Congress bicker about nonsubstantive issues while they in the field are united and committed to the missions of freedom and keeping our country safe. The armed conflicts in which our young men and women are fighting should be the topic of thoughtful debate.

However, there is no place for this kind of posturing in the business of war because it merely emboldens the enemy and belittles the efforts of our troops.

Let’s look at the facts. Some argue there is no connection between Iraq and 9/11. Look at the facts. In late 1994 or early 1995, Saddam Hussein met with senior Taliban intelligence officer in Khartoum. In March 1998, after bin Laden’s public fatwah against the United States, two al-Qaida members reportedly went to Iraq to meet with Iraqi intelligence. In July, an Iraqi delegation traveled to Sudan to meet first with the Taliban and then bin Laden. “One reliable source reported bin Laden’s having met with Iraqi officials, who ‘may have offered him asylum.’” These are quotes from the bipartisan 9/11 Commission Report published in July 2004.

I do not think one could argue that these facts are either agenda-driven or biased. These facts demonstrate that prior to the 9/11 attacks, al-Qaida and bin Laden himself maintained contacts with the Iraqi regime and that the Iraqis even offered to harbor bin Laden.

Accordingly, a categorical denial that “Iraq had nothing to do with 9/11” cannot be made responsibly. Next contention: Iraq had and has nothing to do with the global war on terror. That is flat dead wrong. Hardly anyone can refute the fact that Iraq has become the gathering place for Sunni extremists who wish to wage war against the United States. From their optic, the terrorists have a plethora of targets with the presence of U.S. forces in Iraq. They are also motivated to combat our policy of fostering a pluralistic, open, and democratic government in Iraq.

Instead, the terrorists wish to distort Islam’s true meaning, wage an ugly war against Iraq’s Shi’a, and induce a sectarian civil war during the aftermath of which the terrorists would like to establish a Taliban-like state in Iraq. These same terrorists are also motivated by their desire to evict U.S. forces not only from Iraq but from the Greater Arab Middle East, and they view our mission in Iraq as an act of occupation when it is a battle of liberation. The battle is one of hearts and minds; a battle, however, that the Iraqi people are determined to win, along with our assistance, as demonstrated.
by the 56-percent voter turnout in January, where they elected a new national government, and also by the continuing willingness of Iraqis—to face the danger of terrorist suicide attacks—to sign up to serve to keep the peace.

But terrorism is not a new phenomenon in Iraq. Chief among the terrorists in Iraq today, Abu Musab al-Zarqawi, was known to have been in Baghdad since at least mid-2002. You might ask, how can a terrorist of Zarqawi’s notoriety operate, let alone live, in a Stalinist police state such as that of Saddam’s Iraq, without the former regime’s knowledge, if not consent. The answer is simple. Saddam knew Zarqawi was there, undoubtedly.

When asked about Iraq’s al-Qaida relationship by CNN’s Wolf Blitzer, on February 5, 2003, the vice chair of our Senate Intelligence Committee agreed that his presence in Iraq before the war was troubling. He said, “The fact that Zarqawi was in Baghdad at that time, and that he was operating quite freely, is not in any way surprising.” And he went on to say, “I think the world is far safer with the disappearance and removal of Saddam Hussein. This may be one of these cases where he was more dangerous than we thought.” The head of the Iraqi survey group.

Next contention: Iraq would have supplied WMD to terrorists. During that same hearing Dr. Kay added, “After 1998, Iraq became a regime that was totally corrupt. Individuals were out for their own protection, and in a world where we know others are seeking WMD, this would lead to someone at some point in the future of a seller and a buyer meeting up would have made Iraq a far more dangerous country than we even anticipated.”

The 9/11 Commission during the 1990s found Bin Ladin sought the capability to kill on a mass scale. Bin Ladin’s aides received word that a Sudanese military officer who had been a member of the previous government was offering to sell weapons grade uranium. After a number of contacts were made through intermediaries, the officer sent Bin Ladin a sample. Bin Ladin, Al-Qaida representatives asked to inspect the uranium and were shown a cylinder about 3 feet long and one thought he could pronounce it genuine.

Finally, some would argue Iraq is a quagmire and not winnable. But listen to the troops. They say otherwise. These are the boots on the ground, the soldiers, sailors, airmen and marines, with different ranks and duties, at their forward operating bases, and they overwhelmingly had the same things to say about the war in Iraq. And he went on to say that these 100 American troops made the following points: We believe in the mission. We are making progress. The Iraqis are making progress too. We are going to win. I believe that article says it all. Michael Graham’s sampling of U.S. military personnel was random, varied, not controlled by the Pentagon. The sample may be small, but 100 troops believe in the war in Iraq and that we are going to win.

Historically, on the first casualty of war is truth. The first casualty of political battles can often be the men and women fighting the real battles while executing our Nation’s policies. Let us not debase the memories of those who have laid such a sacrifice on the altar of freedom with meaningless finger-pointing exercises. Let’s speak with truth about the issues and facts at hand.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. BOND. I thank the Chair, and I yield the floor.

Given al-Qaida’s demonstrated desire to acquire WMD and the Iraqi Government’s likelihood of sharing WMD technology with anyone willing to pay the right price, no one can dispute that the liberation of Iraq from Saddam’s dictatorial and corrupt regime was a prudent offensive strike in the war on terror.

Mr. BOND. I thank the Chair, and I yield the floor.

The 9/11 Commission during the 1990s found Bin Ladin apparently purchased it, and it turned out that it was not a legitimate one.
107 battalions today, he was doing his job of supporting the war. And I expected it from Lt. General Steve Whitcomb, commanding general of the 3rd Army, as he talked about successes after more than one million gallons of fuel across Iraq every day, despite the best efforts of the insurgents.

Generals are supposed to be gung ho. It comes with the pay grade.

But I heard the same, positive assessments from 23-year-old sergeants from New Iberia, La., and from PFCs from Wisconsin and Alabama. A report from Lieutenant Li, whose Humvee had been hit by IEDs so many times he’d lost count. I heard it from Airmen Truong and Tano, both in Vietnam, and recently returned to his native country to marry. Two weeks after “I do,” Airmen Truong was headed back to Kuwait to do his duty for his adopted country.

Again and again, from “white-collar” soldiers working in the relative safety of Camp Victory at the Baghdad airport to the “real soldiers patrolling Route Irish (a.k.a. the “Highway of Death”), I heard that America and their Iraqi-army allies are winning the war against the insurgents. I was told again and again by the soldiers themselves that their (our) cause is just, the strategy is working, and the enemy they fight represents evil.

In other words, I heard things seldom heard on CBS or read in the pages of the New York Times.

It was only a week, and I have my own BUSH-bashing broadcasting biases, but how much closer can a reporter get to delivering unspun, bias-free objective reporting than live-mic broadcasting instantly back to the studio, with no filters or editorial meetings. Just the young men in the hot desert telling what they’ve seen, what they’ve heard, and what they now believe based on their own experiences.

Isn’t it at least significant that not one in 100 thought invading Iraq was a mistake? Was it because they believed that a random selection of 100 soldiers all believe their mission is worthwhile? Should we detect the hand of the Vast, Right-Wing Conspiracy in the fact that the vast majority of the troops find the media coverage of the war ignorant, harmful, or both?

I’m proud to say that, for a week, the soldiers were the editors. One was a major daily newspaper or a national network, I would be concerned that what they said is contrary to what I am printing or broadcasting.

But the mainstream media don’t need to hear from the soldiers. They already know that the war was a terrible mistake, that the world would be safer if we’d left Saddam in power, and that there is no chance for victory in Iraq.

Me, I’m not so smart. I like to let the guys on the ground tell their story. I believe it is completely possible that they know something that I—and the New York Times editorial page—do not.

The PRESIDING OFFICER (Mr. CRAFEE). The next hour is controlled by the minority.

The Senator from Minnesota.

Mr. DAYTON. Mr. President, I am one of those who along with a number of my colleagues, who believes we should be debating not this gun liability bill but the Department of Defense authorization bill for the coming fiscal year. I serve on that committee. It was a good bipartisan effort. I was planning to offer an amendment to add $120 million for childcare and family support for the families of reservists and National Guard men and women who are called to active duty. Others had amendments, including one regarding BRAC, of particular note to me and others in Minnesota affected by that process.

But we are not on that bill. Instead, we are dealing with the most special interest legislation I have encountered in my 4½ years in the Senate. We are going to leave at the end of this week for a month and we have one last window of opportunity to take up what I believe to be one of the most important measures before the Nation and the Senate. Instead, we get this special interest bill.

We are not on stem cell legislation that would allow us to create a medically and scientifically based framework to protect the sanctity of human life or prohibit cloning, and yet still allow medical research that could save many thousands of lives for years to come. That is not the Republican leadership’s top priority.

Nor is the constitutional amendment to prohibit the burning or desecration of the American flag, of which I am a proud cosponsor, brought to the Senate. That is not the Republican leadership’s top priority.

This legislation is supposedly necessary to protect the rights of people in the lawful business of manufacturing, distributing, or selling firearm and buying the same.

In the manufactured hysteria of this fabricated crisis, the Government or a majority vote of either a permanent majority or the judiciary evidently is threatening to violate the first amendment, the second amendment, and the 14th amendment rights of all gun manufacturers, distributors, and dealers in the United States of America. What utter nonsense. But if the National Rifle Association says the sky is green and the grass is blue, the majority of Congress will run for the paint.

I strongly support the second amendment of the U.S. Constitution. I am a gun enthusiast. But I am not an irresponsible gun enthusiast. I want to see guns used only by those who make and sell potentially dangerous products or products that can be used illegally and misused. And
judges and juries are not indiscriminately finding against gun manufacturers. Most are probably gun owners and hunters as well.

Despite what the NRA pedals to its members to justify its existence and their financial amendment is accepted and respected by the overwhelming majority of Americans and there is no threat to responsible manufacturers, dealers, lawful buyers, or owners of the millions of guns in America. There is no justification for this special legislation and the special treatment it gives to that industry.

Of course, the gun industry is accustomed to getting special treatment from Congress. Firearms and tobacco are the only two consumer products specifically exempt from regulation by the Consumer Products Safety Commission. What an exemption. I have to hand it to the NRA, whether I agree with them or not, they sure know how to operate around here. Many industries, even individual corporations pour a lot more money into lobbying and into political contributions than the NRA and they do not get nearly the special treatment, special favors from Congress the gun lobby does—a completely different set of consumer product safety laws and regulations, and now almost complete immunity for lawsuits from negligence or product malfunctions. All other businesses and industries in America are in discount coach while the gun lobby has special privileges flying first class on Air America under this Congress and preceding Congresses.

It is because there is that exemption from the consumer product safety laws of this country that some of these lawsuits, not frivolous, but determined by a judge or jury through the process to be legitimate and bona fide, and the resulting civil damages are necessary to move the industry to take some of the safety actions it can technologically and financially certainly afford to make that it probably would not do otherwise.

For example, take Bushmaster. Their dealer lost the sniper’s assault rifle along with 238 other guns that were then used by the snipers against the innocent victims in Washington, DC. As a result of its settlement with the victims of those families, they agreed also to inform their dealers of safer sales practices so lawfully will keep other criminals from obtaining the guns, something that had never been done before.

In June of 2004, two former New Jersey police officers were shot in the line of duty with a trafficked gun negligently sold by a West Virginia dealer. They won a $1 million settlement, and the dealer who sold the gun, along with 11 other handguns in a cash sale to a straw buyer for a gun trafficker—after that lawsuit that dealer, as well as two other pawnshops, agreed to implement safer practices to prevent sales to traffickers, including a policy of ending large-volume sales of handguns.

In 2004 also, Tennille Jefferson, whose 7-year-old son was unintentionally killed by another child with a trafficked gun, won a settlement from a gun dealer that amounted to $850,000. The handgun was one of many the dealer sold to the trafficker despite clear signs the guns were headed for the underground market. That, too, resulted in changes in policies and sales practices that hopefully will prevent other mothers from suffering that terrible fate of losing a child.

I am not sure why any one of those cases filed against the manufacturers or dealers is proper. Again, that is for the process to determine. But there is no evidence, no evidence at all, that there is anything about the nature of these suits, the outcomes of them, the jury awards relative to the damages that have occurred, that indicates this industry is being prejudiced or plagued by those who they contrive to be doing so, to justify this legislation. If we are going to lose one gun in this country, let’s do it openly and above-board with all industries, all of American businesses affected equally by those changes. To single out one industry, particularly one that manufacturers products, potentially, as dangerous as guns, is just a terrible day for the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. President, this is a sad day in the Senate. It is a sad day in two respects. Yesterday, we were debating a bill, the Department of Defense Authorization Act. It is an important bill. It is a $440 billion bill for our American military: our soldiers, sailors, marines, airmen, members of the Coast Guard, Guard and Reserve. We were trying, in that bill, to help our fighting men and women and their families.

We had a long list of amendments that we wanted to consider: extra pay for totally disabled veterans, help for the widows and orphans of combat soldiers who die in the line of duty, fair compensation for Guard and Reserve when they are activated and they are Federal employees, daycare for the families of soldiers who are activated, quality-of-life issues for the men and women in uniform who are fighting for America.

A decision was made by the Republican leadership to leave that bill, leave that issue, to come to this one. What could be more important for us to consider than the safety, the lives, and fortunes of the men and women who serve our country and risk their lives, on military duty, and their families?

Well, in the estimation of the Republican leader, Senator Frist, there was one issue that was more important than talking about our men and women in uniform. That issue was providing the NRA, the gun industry, immunity from liability for one industry in America, to say that of all the businesses in America that provide us with goods and services, all of the businesses that are currently held responsible for wrongdoing, we will create one exception. We will say, if the gun industry is guilty of wrongdoing, they cannot be sued. That is right. The firearms industry, which sells millions of firearms each year in the United States, should not be held responsible for their bad conduct and wrongdoing.

It is hard to say those words and not shake your head. If personal responsibility matters, why is it that an American and an American business man or woman, why in the world would you exempt one industry and say they are special, they are political royalty, they cannot be held liable for their misconduct? And why did we move to this bill and away from the Department of Defense authorization bill to help our soldiers and their families? The answer is too obvious. It is because of the political clout of the National Rifle Association and the gun lobby. It is the only group I can think of which would just go straightforward with the concept they are more important to the Senate calendar than the fighting men and women who are now risking their lives for our country. They have done it in the past.

The NRA runs certain people in this Chamber and on the other side when it comes to the agenda. They decide what will be taken up and what amendments will pass—an extremely powerful group. The NRA succeeded in having the Senate debate guns—and that is a rare debate—but only when it comes to this question of gun immunity.

Isn’t it interesting, we want to put an amendment on this bill that says when you sell a firearm you have to check to see if the purchaser is on a watch list of terrorists. Is that unreasonable? If you have computer access through your store—and these stores do—shouldn’t you check to see if that person standing across the counter from you is on the watch list for terrorism in America? That concept is rejected by the National Rifle Association. Background checks: extremely limited. Information gathered about criminal people is to be destroyed so quickly that it is of little value to law enforcement.

A March 2005 report from the Government Accountability Office found that between February and June of 2004, the U.S. list of terrorists applied 44 times to buy guns. It is not unheard of. It happens in this country. In only nine instances were they turned down. In the months since the study ended, 12 more suspected terrorists had the green light to buy carry guns.

FBI Director Bob Mueller—who I respect very much—said he was forming a group to study the problem. Why aren’t we talking about this instead of granting immunity for the gun dealer who sells a weapon to someone he should have known could misuse it for a crime or for terrorism? We are shielding them from civil liability for not
living up to their responsibility when it comes to the sale of lethal firearms.

Or we could talk about ways to solve the problem in America of guns being trafficked, many crossing State lines, and used in crimes. The ATF says 90 percent of all guns seized at crime scenes were used by persons other than the original purchaser, other than “straw men,” people who bought them to sell them to criminals. One-third of all crime guns cross State lines.

In the year 2000, 77 percent of guns traced to crimes committed in Illinois originated in other States. One State, Mississippi—the little State of Mississippi—is far and away the per capita leader in selling guns exported from their State and used in crime. Do you know why? Because firearms laws are not really strictly enforced in Mississippi, and some other States.

From 2000 to 2002, Department of Justice prosecutors filed three cases in Mississippi for violations of gun trafficking laws. In contrast, 32 cases were filed in Kentucky, 2 in Tennessee. So we have gun dealers in Mississippi selling truckloads of guns to people who get on planes and drive up into Illinois and, perhaps, your State, too, selling them to gun gangs and drug gangs on the streets, and then spreading out these guns to kill innocent people. And the people pushing this bill are arguing that we should not hold those firearms dealers responsible because they did not “know” that a crime was going to be committed.

One hundred “Saturday night specials” to stick in the trunk of your car, junk guns, that you would never use for sports or hunting, and they didn’t know? They should have known. That is a standard in law almost everywhere: that you knew or should have known. They are changing the law. They say firearms dealers, we are not going to hold them to this same standard that we hold every other business in America to when people buy products.

There are a lot of other issues we could talk about, the gun show loophole, and others. But I think one of the most important things we could talk about is why this bill is on the floor today. It is not because gun manufacturers and gun dealers are facing bankruptcy and a lot of litigation. I read into the RECORD yesterday—and will not repeat—the major gun manufacturers in this country have no problems in terms of profitability. In fact, one of the leading companies, Smith & Wesson, said:

Mr. President, $4,500—does that sound like a business crisis that would move a gun immunity bill to the front of the calendar in front of the Department of Defense authorization bill? What it comes down to is this gun lobby has a lot of clout, and they are pushing for this sweeping immunity.

What kind of cases are we talking about? I said to my staff, you can talk about the law. And I could stand here as a person trained in law school and go through the obvious problems with this bill. But I think it is more important to talk about real-life situations. It is more important to give illustrations of why this is such a terrible bill.

Let me tell you about Anthony Oliver. Anthony Oliver was 14 years old. He was shot and killed on July 23 of last year. They brought a lawsuit against Lou’s, the gun shop that supplied Anthony’s gun, for $50. He told the police he bought the gun with his allowance near his home because he was intimidated by a group of kids who jumped his friend and threatened to beat him up. He said he thought the safety was on when he accidentally killed Anthony with one shot to the stomach.

Federal investigators traced the gun. It was a “Saturday night special,” one of those cheap guns just used for crime. They traced it to Lou’s Jewelry and Pawn shop in Upper Darby, PA. From 1996 to the year 2000, this pawnshop in Pennsylvania sold 441 guns traced to crime. In 2003, one of those people went to Lou’s, a pawnshop in Pennsylvania in selling guns to criminals and 43rd in the Nation among all gun dealers.

In 2003, the last year for which we have statistics, Lou’s sold 178 guns traced to crime, just 0.1 percent of the more than 3,000 dealers in Pennsylvania sold even one gun traced to crime. So you have a handful of dealers, just a small percentage, who are not paying attention or ignoring openly the fact that they are selling guns over and over and over again to gun traffickers and to straw purchasers.

How is that done? Well, the person who has a criminal record and cannot legally buy a gun, the girlfriend buys it for him while he is standing there picking out the guns, the girlfriend is handing over the credit card or the cash to pay for them. They cannot sell to him. He is a criminal. He has a record of felonies, so the girlfriend buys it. So should the gun dealer be aware of that? Why, of course. It is obvious.

Should they be held accountable if they should have known that gun, through that girlfriend, is going straight, in the case of a felon, straight on to the street, killing innocent people? In America, a jury decides that. They will not be able to when this bill is passed. When this bill is passed, those who vote for it have decided they will be the jury forever. It is more important to give illustration of what we are doing. We are taking that matter out of the hands of American citizens. We are putting it in the hands of a handful of Senators.

The gun that killed Anthony was sold in 2003 in Lou’s to a trafficker who had purchased six guns in a very short period. They bought multiple guns, including many “Saturday night specials,” which are small, easily concealed, low-quality handguns sought basically by kids, drug gangs, and those who are going to have a fast crime experience on a Saturday night.

The purchase of multiple firearms at one time should have been a red flag to Lou, but Lou doesn’t pay any attention to that. Give me some cash—I’ll give you a gun; no questions asked.

When this bill passes, the family of Anthony Oliver will lose their lawsuit, and in the years they brought against Lou’s, the gun shop that continues to sell these guns used in crime. So what a great piece of news for that family; the tragedy of losing your 14-year-old son to a “Saturday night special” from a pawnshop which specializes in selling guns to gun traffickers and criminals. This is a great bill, isn’t it?

Let me tell you about another case. Danny Guzman was a 26-year-old father of two from Worcester, MA. killed by a stray bullet fired outside of a nightclub of Christmas Eve in 1999. After the shooting, the loaded gun used in the shooting was found behind an apartment building by a 4-year-old child. The gun had no serial number. They determined the gun was one of thousands stolen from Kahr Arms, a Worcechester gun manufacturer, by their own employees, who hired many of these employees and, it turns out, never checked whether they had criminal records.

One of the thieves, Mark Cronin, who worked for this gun manufacturer, had been hired despite his history of crack addiction, theft, alcohol abuse, violence, and assault and battery. They did not check it. The gun manufacturer hired people to make guns and did not do a criminal background check on their employees.

Cronin told an associate that he took guns out of the Kahr company “all the time” and that he could just walk out with a gun and use it right away. He used the gun that was used to kill Danny right off the assembly line. And he was pretty smart about it. He took it off the assembly line before it was stamped with a serial number. Smart guy. Can’t be traced.

The investigation also led to the arrest of another employee, Scott Anderson, who had a criminal history, who pled guilty to stealing guns from the company.

One of Kahr firearms disappeared in a 5-year period. The local police captain classified the recordkeeping at that facility as “shoddy.” That it was possible to remove weapons without detection because they did not keep their records well.

Danny Guzman’s family brought a wrongful death suit in Massachusetts State court against the owner of the gun manufacturing company, saying: You should have kept your records so you know that guns we’re being stolen. And you certainly should have done a background check on your employees. Hiring somebody who has such a criminal record to work in a plant
that makes guns is clearly a question of negligence.

The trial judge denied the efforts of the company to dismiss the lawsuit, and it is still pending. Do you know what happens to that lawsuit by the family against the arms manufacturer if we pass this bill? It is immediately removed. They have no rights in court to pursue that. Why? Why would we say to a person who owns a company that makes guns that you are held to a lesser standard than a person who owns a company that makes toys? That is what it boils down to. You are doing it because the gun lobby insists on it. They want this immunity.

The case that has brought many police officers forward—and I will close with this—involves police officers. The last time we debated this bill, we said: Shouldn’t we at least create an exception that if the gun is used to kill a police officer in the line of duty, that we are going to hold a gun dealer responsible if they should have known that? Wouldn’t we hold a gun manufacturer responsible if they were involved in supplying guns to Lou’s Pawnshop, which ranks one of the highest in the Nation of turning guns over to criminals? So we asked for an exception for law enforcement. It was defeated. All the people here who talk about law and order and how much they love policemen in uniform defending our communities, defending us with their lives voted against them when they had a chance to put that exception in the law.

Let me give you a specific example. On January 12, 2001, police officers in Orange, NJ, were performing undercover surveillance at a gas station that had been robbed repeatedly. Someone acting suspiciously walked up to the gas station and then turned away. When Detective David Lemongello approached a few blocks away to question him, he responded by turning and opening fire. Detective Lemongello was hit in the chest and left arm, and the suspect fled. When additional officers, including Kenneth McGuire, found the man hiding beneath some bushes, the man started shooting again. Officer McGuire was hit in the abdomen and right leg. McGuire and two other officers returned fire and killed the man, even though they had been shot. However, both Lemongello and Officer McGuire survived, they have suffered serious, debilitating injuries.

The man who shot them was wanted for attempted murder and had been arrested several times. So how did he get a gun? How did this man come into possession of a gun? Gun trafficker James Gray traveled from New Jersey to West Virginia to buy his guns. He and his companion, Tammi Lea Songer, visited Will’s Jewelry and Loan pawnshop in South Charleston, WV, and Songer acted as a “straw purchaser” by buying the gun for Gray who couldn’t purchase it himself because he was a three-time convicted felon and out-of-State resident. The girlfriend bought the gun while he was standing there. Good old Will’s Jewelry and Loan took the cash and handed the gun over.

The next turned to Will’s 17 days later, purchased 12 more guns—see the pattern—which the girlfriend bought and paid for with thousands of dollars in cash. Should the gun dealer have been saying at this point. This looks a little fishy to me. You know, the people would. Gray picked out the guns for the girlfriend to purchase in full view of Will’s Jewelry and Loan pawnshop personnel, a clear signal this was a “straw purchase.” One of those guns was the gun used to shoot these police officers, McGuire and Lemongello.

Will’s personnel had reservations regarding the nature of the transaction but went through with it anyway before contacting the ATF to report their suspicions. The ATF then contacted the girlfriend, Tammi Lea Songer, who agreed to assist them in a sting operation that resulted in the capture of Gray. However, in the time it took the ATF to set up its sting, Gray had already trafficked the gun—sold it on the street—once. It was used to shoot these police officers.

The police officers and their families are suing the gun dealer, saying: You didn’t use good sense and any reasonable standard of conduct in selling to this guy’s girlfriend when you should have known something fishy was up. So they have a lawsuit against them and the manufacturer. Do you know what happens to this lawsuit from these policemen if this bill passes? It is over. Not another day in court. No chance for these wounded policemen or their families to recover.

Will’s settled, incidentally, with Officers McGuire and Lemongello for a million and agreed to change its practices to bestow more legal tools to ATF agents and the police officers, McGuire and Lemongello was hit in the chest and left arm, and the suspect fled. When additional officers, including Kenneth McGuire, found the man hiding beneath some bushes, the man started shooting again. Officer McGuire was hit in the abdomen and right leg. McGuire and two other officers returned fire and killed the man, even though they had been shot. However, both Lemongello and Officer McGuire survived, they have suffered serious, debilitating injuries.

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During the past weeks, some of us have met with Judge Roberts. We have urged him to be forthcoming at his upcoming hearing. The Judiciary Committee has already sent him a question regarding the ground we have laid the groundwork for full and fair hearings. We are well on the way to preparation for the Senate’s process in considering the nomination. We expect that we will soon be able to announce the Judiciary Committee’s schedule for those hearings.

Late yesterday, the White House provided some documents from Mr. Roberts’ time when he served as special counsel to Attorney General William French Smith during the Reagan administration. None of us had requested these particular documents but, of course, we are always happy to receive anything they want to send. They are at least three categories of documents from Mr. Roberts’ years in the executive branch that are relevant to this nomination.

The second group relates to Mr. Roberts’ work from 1982 to 1986 as an associate White House official for budget and information. Most importantly, Chairman Specter and I have already begun laying the groundwork for full and fair hearings. The Judiciary Committee’s schedule for those hearings.

Yesterday, in our continuing effort to expedite the process, we sent a letter to the White House asking that the files from those years be made available as quickly as possible, and to help speed it up, we identified by name the files we wished to be priorities. I hope the reported statements by White House officials about the lack of days indicating they expect it will take 3 or 4 weeks to make these materials available are in error and, instead,
they can be made available on a prompt basis, not a delayed basis. Otherwise, it would almost appear—I certainly wouldn’t want to suggest the White House would do this—that they are trying to make sure the documents arrive so late in the process that people or arrive so late in the process that the time of the hearings, there would be no time to review them. I trust there will be those at the White House who would understand this would be the wrong way to proceed and would actually in the long run end up taking more time to the process.

The third category of files is from Mr. Roberts’ work when he was a political appointee in the Justice Department’s Office of the Solicitor General. He served as Kenneth Starr’s principal deputy during the prior Bush administration. The reason I say these are important, the President said that his work at this time was one of the reasons he selected Judge Roberts as his nominee. Of course, the President has every right to consider whatever reasons for a Supreme Court nominee. Having said that, however, in carrying out his responsibilities, it is appropria tate that the White House also be entitled to the same kind of information that the White House weighed in making its decision about this nomination. In other words, if this work is one of the reasons they say he is qualified to be on the Supreme Court, all the more reason the 100 Members of the Senate should be able to see it and make up our own minds.

Actually, it might be the most informative of the documents we are going to be seeking. We could get a practical sense of how, when, and why politics and the law intersect for him. I am not seeking to produce all of the files and the hundreds of matters on which Mr. Roberts worked in those critical years. Nobody is asking for that. Rather, in our effort to cooperate and expedite the process, we are putting together a target catalog of documents. I hope we can work with Chairman Specter to send a reasonable partial pre-request for a selected group of those files.

In that regard, I ask unanimous consent that a copy of the letter we sent to the White House yesterday be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC, JULY 26, 2005
Hon. GEORGE W. BUSH,
THE WHITE HOUSE,
WASHINGTON, DC.

DEAR MR. PRESIDENT: We are disappointed that the White House appears to have so quickly moved to close off access by the Senate to important and informative documents written by Judge Roberts while he was at the Department of Justice. According to news reports today, your Administration may be preemptively protecting Judge documents not yet requested yet by the Committee—documents that could very well hold important information necessary to evaluate Judge Roberts’ judicial philosophy and legal reasoning.

While many documents are being delivered today from Judge Roberts’ work for Attorney General William P. Barr at the Reagan Justice Department, it is far too early to determine whether these documents are relevant, adequate, or even helpful. It may be that these documents, along with the upcoming hearings, will give us enough information to fulfill our constitutional duty to advise and consent on this nomination. But it would be premature for either the Senate or the White House to make that determination now. Judge Roberts spent some four years working for President George Bush. It may very well be that documents from that time will be helpful to the Committee as well.

It is our hope that the confirmation process moves swiftly and smoothly over the coming weeks. We can assure you that no Senator is attempting to unduly delay the proceedings. We intend to work with Chairman Specter if and when further requests for documents or information appear appropriate. But in the meantime, we believe that judgment should be withheld on which and many documents his nominee might be released to the Senate. The history of past nominations is varied but clear—each confirmation process is different. The type of documents and the law intersect for him. I am not sense of how, when, and why politics and the law intersect for him. I am not expecting to seek production of all the documents, but it is important and informative documents written by Supreme Court nominee John Roberts, and send us the telephone book. That is 400 pages. It was on his desk. It is not a great fanfare, but we have yet to receive the documents we have, in fact, requested. It is an unfortunate pattern we have seen too often. Of course, the White House has available to it all the files and the thousands of matters reported embargoed to deny Democratic Senators an opportunity to comment is, contrary to appearances, actually intended to begin a dialogue about documents, then I welcome it. Of course, if it is intended to unilaterally preempt a discussion about documents the Senate may need and is entitled to, then this is regrettable.

Past administrations, Republican and Democratic, have been willing cooperatively to work with the Senate to accommodate its requests for documents. There are ample precedents in both parties documenting such cooperation. I believe the Senate is going to need the White House’s full cooperation to expedite this process as the President has requested.

Let us be serious. Now that the White House has gotten the stagecraft out of the way, let’s go back to working on the substance of the Senate’s work on this very important nomination. The President has, rightfully so, announced his choice. Now the Senate must rise to the challenge and do its work. To fulfill our constitutional duties, we need to consider this nomination carefully and thoroughly as the American people deserve. A Supreme Court Justice is not there to represent either the Republican or Democratic Party; they are there to represent all 280 million Americans. The Senate is charged to find, Is this the person the American people deserve to have on the Court? That takes time. It takes the cooperation of the nominee, and it takes the cooperation of the administration. It means that Republicans, as well as Democrats, have to take our constitutional obligations on behalf of the American people seriously.
Let us remember this is not to see who scores political points. This is to determine how we protect the rights of all Americans—the ultimate check and balance for all Americans. This is somebody who could well serve until the year 2020, his or her term removed by Kahr Arms employees before serial numbers had even been stamped on them, rendering them virtually untraceable. Some point has been made about the fact that it is illegal to erase serial numbers. These people were able to get the weapons, serial numbers were impressed upon the weapons, so that law would not apply at all. The guns were then resold to criminals in exchange for money and drugs. The loaded gun that killed Mr. Guzman was found by a 4-year-old behind an apartment building near the scene of the shooting. Thank goodness that 4-year-old didn’t decide to test the weapon himself or herself.

Had Kahr Arms performed background tests of drug dealing on prospective employees, or secured its facility to prevent theft, Danny Guzman might be alive today. A Massachusetts court held that the suit states a valid legal claim for negligence, but this bill would throw the case out of court, denying Danny’s family their day in court.

Again, this is the Congress reaching into a State court and telling that judge, we don’t care what your law says, we don’t care that 200 years of legal precedent in Massachusetts or any other State in the country amounts to. This suit should be stricken, taken out, thrown out.

This legislation is sweeping and it is unprecedented. It deals a serious blow to citizens throughout this country, while enhancing dramatically the legal protections for the gun industry. Now, the bill’s proponents repeatedly say you cannot hold someone responsible for the criminal actions of another—as my colleagues have said, the intervening criminal actions of another.

First of all, that is not what this case is about. And, frankly, that is not the law. I am surprised that my colleagues who are attorneys would come down and make such an erroneous statement about the law. A memorandum by a professor at the University of Michigan Law School points out that in the re-statement of torts—this is as in all law—this is the basic summary of the status of the law in the U.S. with respect to torts. Section 448:

If the likelihood that a third person may act in a particular manner is a hazard or one of the hazards which makes the actor negligent, such an act, whether innocent, negligent, intentionally tortious, or criminal, does not prevent the actor from being liable from harm caused thereby.

This is black letter law. There is no special exemption for the criminal act of another if you fall in your duty to the one of several individuals with respect to Kahr Arms is to secure dangerous weapons and to have employees who are responsible. That is what they are being sued about. They have a duty under the law for the whole community to act in a way that will not unnecessarily cause harm to others. What should be decided in a court is whether they lived up to that duty. If this legislation passes, they will be denied the opportunity to determine whether their duty to the community was upheld.

This is about responsibility for their actions—in this case, the actions of Kahr Arms. Companies are responsible for the acts of their agents, it is the requirement and the obligation to take precautions, to use the standard of care a businessperson would use in the conduct of that business—the standard of care any businessperson would use. Certainly, this standard of care should apply to those who manufacture weapons, who sell weapons, and the trade associations associated with them.

The allegation in all these cases is that they failed to do that—not that they were unwitting, incidental victims of a criminal mind, but that they failed in their duty. Bull’s Eye Shooter Supply in Washington State, for example, who supplied the Washington sniper with the rifle. They did not account for 238 weapons. They had no idea where they were. The evidence was overwhelming that there was no standard of adequate care, no effective controls on inventory. The owner of that gun store claimed a teenager—he didn’t realize it at the time—must have walked in and shoplifted an automatic weapon, a 3-foot-long sniper weapon, and carried it away, undetected, during business hours. In fact, this was missing without his knowledge for weeks and months. That is not the standard of care the community should expect from anyone engaged in this type of business. Is that the standard of care? No, it is not the standard we expect. It is particularly not the standard when you are dealing with a product that can kill people. I would think most Americans on the streets, if you asked them, Would you say gun dealers and manufacturers should be a little more cautious than people who make other items, I think the answer would be, invariably: Yes, of course. These are inherently dangerous products.

So this is not about punishing people for the criminal activities of others. It is about holding individuals and corporations up to the product we expect from everybody. There are various examples. Some say, my goodness, if a store sells someone a knife that is then used in a crime, they should not be responsible. Others have talked about car dealers. But if you have the car dealer who leaves the keys in a car, and they have no security, and a teenager gets into that car and harms someone, certainly I think the parents of that individual harmed or that individual themselves could go to the court and the dealer would meet the rational standard of care of those in the automobile industry. They have to secure the car and provide security.
They cannot make them so easily available that a young person would take the car and get into an accident. That applies to automobile dealers.

But if this legislation passes, common sense does not apply to the gun industry. In fact this is a license for irresponsibility we are considering today. Whatever precautions they are taking today, because they might anticipate this type of danger and anticipate, perhaps, litigation, there is no $100 million today to take those rudimentary precautions. There will be a race to the bottom, to the worst standards of the industry, to the worst operations of the worst operators.

With this bill, we are saying, in addition to your Federal firearms license, you get another license; you can be irresponsible. That is not to suggest all dealers and manufacturers are irresponsible. But some are. Those very few authors—very few authors,

We talk about junk lawsuits. It is not a junk lawsuit when your husband has been shot by a sniper while sitting in a bus waiting to go to work, to drive his bus, to service this community, to pick people up and get them to work. I don’t think the families of Conrad Johnson volunteered to be part of a social experiment. I think any suggestion to that effect is offensive. They have been harmed grievously. A wife lost her husband. Children have lost their father. The very heart of this family is in question. They seek redress, as anybody would. That is not a junk lawsuit.

On the contrary, these families have been harmed, in part, because of the negligence of someone, and that someone should pay. The suggestion that this legislation is in response to some avalanche of lawsuits that is devastating the firearms industry is without foundation. The industry is so stressed that they have managed to raise over $4,500. For that, we are able to settle their legitimate case, but they are going overseas because they are looking for what they consider to be the best product and best design. They are dealing with subsidiaries of foreign companies. The suggestion, of course, that these suits are driving American products away from America is ludicrous.

It is not about preserving our defense. It has nothing to do with our defense. The Pentagon is making decisions to buy American because they believe they are better weapons. This is about protecting one industry from the legal responsibility to exercise caution, a responsibility every individual must exercise. All industries must do that or, indeed, the vast majority.

This is not about protecting the integrity of the courts. What does it say to the integrity of the courts of West Virginia when a judge found that a suit brought by two brave New Jersey police officers should proceed, when we say: No, you are wrong, throw that case out. What will it say to Massachusetts courts if we pass this legislation when that case against Kahr Arms is thrown out the door? It will say we are meddling in the affairs of the courts in an unprecedented fashion. Thankfully, Officers Lemondello and McGuire were able to settle their legitimate case, but there are cases pending, and those cases should be able to go to court.

I urge my colleagues to reject this gun industry immunity bill.

I want to make one other point before I yield the floor. Much has been made of a letter from the Beretta Company about the danger of an avalanche of lawsuits. If you look closely, what has happened is the District of Columbia, their duly constituted legislative body, passed a strict liability bill. The courts have upheld that. They say it is appropriate. That is the American system. That is what we are trying to do today. That is a strict liability bill, and that may raise concerns with the gun industry. This bill goes way beyond strict liability. It says simple negligence is out the door, and to conflate those two arguments does a great disservice to the accuracy of the truth of this debate.

Mr. President, I believe my time has expired. I yield the floor.

Mr. CRAIG. 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. REID. 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. REID. Mr. President, I ask unanimous consent that we stay on the Defense bill and that upon completion of that bill, we go to the gun liability legislation.

Mr. FRIST. Reserving the right to object, Mr. President, reflecting on yesterday, if we had invoked cloture yesterday, we would have been able to complete the Department of Defense authorization bill. We were unable to invoke cloture. I made it clear at that time at some point we would return to the Department of Defense authorization bill, a very important bill.

At the same time, we have about five pieces of legislation we have to address over the next 72 hours. We need to move on, as we will.

Also, the chairman and ranking member will have the opportunity over the next few days and weeks to take these more than 200 amendments, look at those amendments and see how many are absolutely necessary, based on their judgment, and then we can come back and address the issue of defense.

Finally, I ask that the Democratic leader consider my request from yesterday so that at any time determined by the majority leader, in consultation with the Democratic leader, then the Senate resume consideration of the Defense authorization bill.

Mr. REID. Mr. President, if the Senator will withhold for one second. There is now before the Senate a request to stay on the Defense bill and finish the gun bill when the Defense bill is finished. It is my understanding the distinguished majority leader has asked to modify that request so that he be able to call up the Defense bill at any time he wishes; is that the way I understand the request as modified?

Mr. FRIST. Mr. President, I will phrase it that at any time determined by the majority leader, in consultation with the Democratic leader, the Senate will resume consideration of the Defense authorization bill.

Mr. REID. Mr. President, I understand that. I am disappointed we are not going to the Defense bill. My colleagues and I have been on the Record consistently and repeatedly, so there is no need for me to give that speech again.
Mr. KENNEDY. Reserving the right to object, can the leader give us some indication as to when we will go on the Defense authorization bill, as one who has an amendment and is glad to participate?

Mr. FRIST. Mr. President, I am happy to say that, that is why I specifically stated in my unanimous consent request “in consultation with the Democratic leader.” Until we get through the highway bill, the Energy bill, Interior appropriations, Legislative Branch appropriations, and gun liability, it is going to be hard for me to predict exactly when—plus we have a 5-week recess between now and then.

The whole idea of my unanimous consent request is I stay in touch through consultation with the Democratic leader to find the appropriate time.

Mr. KENNEDY. Mr. President, I will not object. My feeling is, I regretted the fact we got off the Defense bill—particularly because of its importance to our national security—to go on to this gun liability bill. I am not going to object to the leader coming back. As one who has an amendment—I know many of our colleagues were eager to focus on those amendments. We will expect to hear from our leader as to when the leader will do that.

Further reserving the right to object, is it the intention of the leader to permit amendments to the gun liability bill so we will, now that we are on that, means some Members will be able to get their amendments in and others will not.

Mr. REID. If I can say one thing, I think it was an oversight on the part of the majority leader, but one of the issues we have to deal with before we leave is Native Hawaiians also.

Mr. FRIST. Mr. President, that is correct, and I was thinking the exact same thing when I was talking, and Department of Defense as well. We have a whole range of issues. The Democratic leader knows I am in constant discussion with him as to how we are going to get the business done, and the fact we did not get cloture yesterday on the Department of Defense bill, we are moving ahead in an orderly fashion, hopefully in a civil way, working with the other side, through the managers on the Democratic side and Republican side, with the leadership in order to complete the business this week.

Mr. President, I guess we have a modified unanimous consent request that at any time determined by the majority leader after consultation with the Democratic leader, the Senate resume consideration of the Defense authorization bill; is that correct?

The PRESIDING OFFICER. That is correct. Is there objection to the request as modified? Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed to a vote on the motion to proceed to the consideration of S. 397.

The question is on agreeing to the motion. The motion was agreed to.

ORDERS FOR THURSDAY, JUNE 28, 2005

Mr. McCONNELL. Mr. President and colleagues in the Senate, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, July 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin a period of morning business for 1 hour, with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the majority leader or his designee. I further ask that following morning business, the Senate resume consideration of S. 397, the gun liability bill.

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

PROGRAM

Mr. McCONNELL. Tomorrow, the Senate will continue its consideration of this gun liability bill. Under an agreement reached this evening, we will debate and vote on the Kohl amendment on trigger locks. That vote will occur before lunch tomorrow. As a remainder, first-degree amendments must be filed by 1 p.m. tomorrow afternoon. We will have a cloture vote on the pending legislation, and we will announce the exact timing of that vote tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:40 a.m., adjourned until Thursday, July 28, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KATHLEEN L. BURRIS, OF MARYLAND, TO BE OFFICE OF ECONOMIC RESOURCES DIRECTOR. (Reappointment. Senate April 7, 2005. Vote 115.)

DEPARTMENT OF HOMELAND SECURITY

ALFRED L. DILLON, JR., OF WISCONSIN, TO BE UNDERSECRETARY FOR NATIONAL SECURITY AND INTELLIGENCE. (Reappointment. Senate March 22, 2005. Vote 110.)

DEPARTMENT OF STATE

ALFRED HOFFMAN, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

DEPARTMENT OF EDUCATION


DEPARTMENT OF JUSTICE

TOM MCNAMARA, OF MARYLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MARYLAND. (Reappointment. Senate March 22, 2005. Vote 111.)

DEPARTMENT OF TRANSPORTATION

BETTY S. SCOTT, OF COLORADO, TO BE UNMANNED AERIAL VEHICLES ADMINISTRATOR. (Reappointment. Senate March 22, 2005. Vote 111.)

DEPARTMENT OF THE INTERIOR

MARK R. SELBER, OF CALIFORNIA, TO BE ASST. SUPERINTENDENT OF THE BUREAU OF MINTING. (Reappointment. Senate April 7, 2005. Vote 7.)

DEPARTMENT OF THE NAVY

DAVID P. HOFFMAN, OF MARYLAND, TO BE CHIEF, NAVAL RESEARCH LABORATORY. (Reappointment. Senate April 7, 2005. Vote 7.)

DEPARTMENT OF THE TREASURY

RICHARD W. BALL, OF LOUISIANA, TO BE ASSISTANT SECRETARY FOR TREASURY OPERATIONS AND MANAGEMENT. (Reappointment. Senate April 7, 2005. Vote 7.)

DEPARTMENT OF VETERANS AFFAIRS

DONALD J. STIMPSON, OF FLORIDA, TO BE CHIEF, VETERANS BUREAU. (Reappointment. Senate April 7, 2005. Vote 7.)

DEPARTMENT OF WILDLIFE AND NATURAL RESOURCES

JAMES N. HAYES, JR., OF WASHINGTON, TO BE SECRETARY OF WILDLIFE AND NATURAL RESOURCES. (Reappointment. Senate April 7, 2005. Vote 7.)

DEPARTMENT OF WINTER Classification:

EXECUTIVE OFFICE OF THE PRESIDENT

SERENA W. MORGAN, OF CALIFORNIA, TO BE ASSISTANT TO THE PRESIDENT FOR COMMUNICATIONS. (Reappointment. Senate March 22, 2005. Vote 111.)

EXECUTIVE OFFICE OF THE PRESIDENT


IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMED FORCES, TO THE RANKS INDICATED UNDER TITLE 10, U.S.C., SECTION 12301:

To be brigadier general

COL. ERIK E. SCHWARTZ, 2000
A PROCLAMATION RECOGNIZING CAPTAIN CHRISTOPHER COULSON, M.D.

HON. ROBERT W. NEY OF OHIO IN THE HOUSE OF REPRESENTATIVES Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker: whereas, Captain Christopher Coulson has devoted himself to serving his country through his deployment to Iraq with the Ohio Army National Guard; and Whereas, Captain Coulson has dedicated 18 years in the Ohio Army National Guard; and Whereas, Captain Coulson has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and Whereas, Captain Coulson must be commended for the hard work and dedication he continues to put forth in protecting our Nation’s freedoms and liberties. Therefore, I join with the entire 18th Congressional District of Ohio, Chris’s family and friends in congratulating Captain Christopher Coulson as he continues to proudly serve our country overseas in Iraq.

RECOGNIZING FLINT HILL ELEMENTARY SCHOOL’S 50TH ANNIVERSARY

HON. TOM DAVIS OF VIRGINIA IN THE HOUSE OF REPRESENTATIVES Tuesday, July 26, 2005

Mr. DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to Flint Hill Elementary School as it prepares to celebrate its 50th anniversary.

Since its establishment in 1955, Flint Hill Elementary School has committed itself to lofty standards of academic and extracurricular excellence. Over the years, as the Vienna area has expanded and diversified, Flint Hill has followed the community’s example.

To this day, Flint Hill Elementary School remains a distinguished and greatly lauded school in many respects, from the arts to academics. The school boasts a number of unique programs, from a Cultural Arts Program to the Flint Hill Elementary School Morning News Team to an annual science fair. The garden serves as a living learning environment, which includes a butterfly garden and a greenhouse. The courtyard is a result of collaborative effort and hours of hard work by students, parents, and teachers. Technology continues to be paramount at Flint Hill, and every class is equipped with a computer presentation system and access to the Internet.

The mission of Flint Hill Elementary School is to promote student learning and high academic standards, while providing a respectful learning environment that develops individual academic achievement and supports social and emotional growth.

Mr. Speaker, in closing, I would like to thank Flint Hill Elementary School faculty and staff for the immeasurable contributions they have made to the community by shaping today’s youth and tomorrow’s future. I congratulate the school on its successes over the last 50 years and I wish it more successful years in the future. I ask that my colleagues join me in applauding this outstanding and distinguished institution.

COMMENDING THE CONTINUING IMPROVEMENT IN RELATIONS BETWEEN THE UNITED STATES AND THE REPUBLIC OF INDIA

SPEECH OF HON. ALCEE L. HASTINGS OF FLORIDA IN THE HOUSE OF REPRESENTATIVES Monday, July 18, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to praise improved relations and partnerships between the United States and the Republic of India. The United States and India have never been as committed to each other as they are today. Our two countries are two democratic nations that hold many of the same goals and ideals in common, such as supporting democratic institutions and eradicating global terrorism. The transformation of U.S.-India relations over the past four years has indeed strengthened economic and diplomatic cooperation between our two countries.

In the past year, United States and Indian officials have met countless times to address our economic and political agendas. Under Secretary of State for Political Affairs Nicholas Burns, Secretary of Transportation Norman Mineta, former Secretary of Defense Donald Rumsfeld, and current Secretary of State Condoleezza Rice have all recently visited India to engage in constructive dialogue on improving U.S.-India relations. Additionally, Indian Defense Minister Pranab Mukherjee and External Affairs Minister Shri Natwar Singh have met with President Bush in Washington, D.C. This is in keeping with the agreement of India’s National Security Advisor, Dr. Brajeshwar Prasad Singh, and his predecessor, India’s national Security Advisor, Dr. Sumitra Mahajan, to continue the two-nation talks initiated in 2002. The current acts of friendship on the part of the U.S. and India, and the increased emphasis on the enhancement of defense and regional security cooperation, demonstrate the trust and promise of our partnership.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2005

SPEECH OF HON. JANICE D. SCHAKOWSKY OF ILLINOIS IN THE HOUSE OF REPRESENTATIVES Friday, July 22, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3070) to reauthorize the human space flight, aeronautics, and science programs of the National Aeronautics and Space Administration, and for other purposes:

Ms. SCHAKOWSKY. Mr. Chairman, I rise in support of H.R. 3070, the National Aeronautics and Space Administration Authorization Act of 2005.

To support NASA’s mission is to support the fundamental ideals of the United States of America: discovery, progress, freedom and imagination. President John F. Kennedy said in September of 1962 that “we set sail on this new sea because there is new knowledge to be gained, and new rights to be won, and they must be won and used for the progress of all people.” President Kennedy understood the value of the exploration of space and his foresight was correct. Since its inception in 1958, NASA has accomplished many great scientific and technological feats, and NASA remains a leading force in scientific research to this day.

Innovations created by our space program have found their way into the clothes we wear, the food we eat, our national security, the medicines we use, the computers we rely on and in the vehicles that transport us. More importantly, NASA’s exploration of space has allowed us to view Earth and the universe in a new way. While the tremendous technical and scientific accomplishments of NASA demonstrate that humans can achieve seemingly impossible feats, we also are humbled by the realization that Earth is just a tiny speck in the universe.

I am pleased to know that the Science Committee brought a bill to the floor that provides clear policy and funding provisions to ensure that NASA remains a multi-mission agency with robust research and development activities in science, aeronautics and human
The women's suffrage movement began in the mid-nineteenth century when Lucretia Mott and Elizabeth Cady Stanton held the first women's rights convention in Seneca Falls, New York, on July 19, 1848. Established in 1869, the National American Woman Suffrage Association fought tirelessly against discrimination and oppression, oftentimes receiving severe punishment in response to their protests.

After only several decades, due to the progress of women's rights activists, women in the U.S. experienced advancement in property rights, employment and educational opportunities, divorce and child custody laws, and increased social freedoms. As new generations of women continued to bolster the strength of the movement, they initiated a social revolution that would touch every aspect of life.

The time has come for Congress to recognize these brave individuals who struggled for equality in the face of adversity, and ultimately amended our constitution to allow for equality among both genders. The suffragists' accomplishments are a credit to American democracy. Their unflinching commitment to equality for women should serve as an example to nations in which this struggle is still being fought today.

Mr. Speaker, let me conclude by again expressing my support for this legislation and encouraging my colleagues' support. It should be a precedence of this Congress to acknowledge the significance of the women's rights movement and honor its leaders with a day of commemoration.

CONGRATULATING LIEUTENANT GENERAL RICHARD A. HACK

HON. TOM DAVIS
OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to congratulate an exceptional officer in the United States Army, Lieutenant General Richard A. Hack, upon his retirement after 33 years of distinguished service.

Throughout his career, Lieutenant General Hack has personified the values of duty, integrity, and selfless service across the many missions the Army has provided in defense of our nation. As the Chief of Staff and Deputy Commanding General of the United States Army Materiel Command, Lieutenant General Hack has made lasting contributions to the Army Materiel Command; an organization that employs more than 50,000 in 149 locations worldwide to include 43 states and 38 countries.

It is my sincere privilege to recognize his many accomplishments. I commend his superb service to the United States Army and this great Nation.

Lieutenant General Hack is a second-generation Army officer, the son of Colonel (Ret) and Mrs. Sidney Hack of Columbia, SC. He graduated from the Virginia Military Institute and was commissioned as a second lieutenant in the Ordnance Corps. Upon completion of the Ordnance Officer Basic Course, he was assigned to Fort Knox, KY, where he served as Platoon Leader and later Shop Officer for the 530th and 514th Maintenance Companies. He was then assigned to Schweinfurt, Germany, as Shop Officer of the 596th and 903rd Maintenance Company and served as Commander, 42nd Maintenance Company in Furt, Germany.

Following the Ordnance Officer Advanced Course, Lieutenant General Hack participated in the Training with Industry program at Sikorsky Aircraft Company in Stratford, CT, and was subsequently assigned to Rock Island Arsenal, IL, as a Materiel Management Staff Officer and later as Aide-de-Camp to the Commanding General, U.S. Army Armament Materiel Command.

After graduation from Command and General Staff College, Lieutenant General Hack was assigned to the 24th Infantry Division (Mechanized), Fort Stewart, GA, where he served as Materiel Officer and Support Operations Officer for the 724th Main Support Battalion, Executive Officer of the 24th Forward Support Battalion, and Chief, Division Materiel Management Center.

Following his Fort Stewart assignments, Lieutenant General Hack served as the U.S. Army Europe Deputy of Staff Logistics staff in Heidelberg, Germany, and then commanded the 705th Main Support Battalion, 5th Infantry Division (Mechanized) at Fort Polk, LA. After command, he was a staff officer at the Ordnance Center and School at Aberdeen Proving Ground, MD. After graduation from the U.S. Army War College, Lieutenant General Hack returned to 24th Infantry Division where he commanded the 24th Infantry Division Support Command. He then served as the Executive Officer to the Deputy Commanding General, U.S. Army Materiel Command. His subsequent assignments include: Assistant Division Commander for Support of the 4th Infantry Division (Mechanized), Fort Hood, TX; Commanding General, 13th Corps Support Command, Fort Hood, TX; and Commanding General of the 21st Theater Support Command, United States Army Europe, Germany.

Throughout his military career, Lieutenant General Hack has been a sterling example of leadership and professionalism. Special thanks must also be given to Lieutenant General Hack's wife, Rosanne, and their son, 1st Lieutenant Richard J. Hack. First Lieutenant Hack carries on the family tradition as the 3rd generation to serve in our Armed Forces, and is currently serving in Iraq. Mr. Speaker, in closing, I would like to express my gratitude to Lieutenant General Hack for his service to our country. I call upon my colleagues to join me in applauding his past accomplishments and wishing him the best of luck in all future endeavors.

PERSONAL EXPLANATION

HON. NICK J. RAHALL II
OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. RAHALL. Mr. Speaker, I was unavoidably detained on official business on Monday, July 25, 2005. Had I been present, I would have voted in the following manner: Rollcall vote No. 417, “yea”; rollcall vote No. 418, “yea”; rollcall vote No. 419, “yea.”
HON. ROBERT W. NEY OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Michael Simpson has served the United States in Operation Iraqi Freedom as a member of the United States Army; and

Whereas, Michael Simpson is to be commended for the honor and bravery that he displayed while serving our Nation in this time of war; and

Whereas, Michael Simpson has demonstrated a commitment to meet challenges with enthusiasm, confidence, and outstanding service;

Therefore, I join with the family, friends and the entire 18th Congressional District of Ohio in thanking Michael Simpson of the United States Army for his service to our country. Your service has made us proud.

15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT
HON. TAMMY BALDWIN OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Ms. BALDWIN. Mr. Speaker, I rise today to celebrate the 15th anniversary of the Americans with Disabilities Act, or the ADA. This landmark piece of legislation was the world’s first comprehensive declaration of equality for people with disabilities, making it the most significant piece of civil rights legislation since the Civil Rights Act of 1964.

There is no doubt that the ADA has improved the lives of the 54 million Americans with disabilities, including 450,000 disabled adults in Wisconsin, and the evidence of this progress can be seen all around us. Thanks to the ADA, we have curb cuts, wheelchair lifts, Braille signs, accessible transit systems, and perhaps most important, the ADA has begun to change peoples’ attitudes towards people with disabilities.

But as part of the recognition of the progress that has been made, it is important for us to remember why the ADA was needed in the first place. Prior to the ADA’s passage, the isolation of and discrimination against people with disabilities was staggering. Many disabled Americans were not working, even though they wanted to have a job. Many did not finish high school, and many lived in poverty. The ADA established a comprehensive prohibition of discrimination on the basis of disability in the areas of employment, public accommodations, public services, transportation, and telecommunications.

So while I celebrate the ADA for the progress it has brought about, the fact remains that the promise of the ADA remains unfulfilled for far too many people. According to a 2004 survey done by the National Organization on Disability, only 35 percent of people with disabilities were employed full or part time; people with disabilities are three times more likely to live in poverty with household incomes below $15,000 than their nondisabled counterparts; and people with disabilities remain twice as likely to drop out of high school and I fear that ongoing efforts to cut the Medicaid program and dismantle Social Security will threaten the wellbeing of many more people with disabilities.

I remain committed to the goals and promise of the ADA—equality and opportunity for all Americans, and I am delighted to reaffirm this commitment as we celebrate the ADA’s 15th anniversary.

THE RETIREMENT OF DOCTOR PORFIRIO LOZANO
HON. SILVESTRE REYES OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. REYES. Mr. Speaker, I rise today to recognize Dr. Porfirio Lozano, a dedicated member of the Department of Veterans Affairs, VA, community in El Paso, Texas.

Dr. Lozano has devoted many years of service to El Paso in many capacities. A distinguished pillar of El Paso’s medical community, Dr. Lozano was responsible for laying the groundwork of today’s osteopathic medicine practitioners in West Texas, paving the way for the integration of Medical Doctors and Doctors of Osteopathic Medicine in El Paso’s hospitals. His work performing compensation and pension examinations for El Paso’s VA ensured that the dispensation of entitlements for our veterans occurred quickly and fairly.

Dr. Lozano’s more than 20 years of service is especially important to me because my Congressional District in El Paso is home to nearly 60,000 veterans. These brave men and women have made tremendous sacrifices for our country, and Dr. Lozano has been steadfast in providing the best possible health care for our Nation’s veterans.

Mr. Speaker, on behalf of the constituents of the 16th Congressional District and the veterans across America, I would like to thank Dr. Lozano for his selfless service to and advocacy for veterans in El Paso and the Nation.

THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT
HON. CHRIS VAN HOLLEN OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise as we celebrate the fifteenth anniversary of the passage of the Americans with Disabilities Act.

Most Americans take for granted the ability to enter a restaurant, speak on the telephone, or apply for a job without fear of discrimination. But until the passage of the ADA, tens of millions of Americans with disabilities were denied these basic rights. Over the past decade and a half, the ADA has enabled people with disabilities to realize more fully their place in American society.

But the promise of the ADA remains unfulfilled. Only about one-third of people with disabilities are employed, and those with disabilities are three times more likely to live in poverty.

If we are to honor our commitment to equal rights, we must work tirelessly to open society and the workplace to all Americans. To that end, I sponsored legislation to fully fund the Individuals with Disabilities in Education Act and recently introduced the Federal Employers with Disabilities Protection Act.

Mr. Speaker, I am proud of what the ADA has accomplished so far. I encourage my colleagues to join me in working to honor its promise for all Americans.

OPERATION RED WINGS—AFGHANISTAN
HON. JIM SAXTON OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. SAXTON. Mr. Speaker, on June 28, 2005, a U.S. Military MH-47D Chinook helicopter was hit by enemy fire and crashed near Asadabad, Afghanistan. Fourteen special operations forces operators on board. These special operations forces were attempting to rescue a 4-man SEAL special reconnaissance element which had come under heavy enemy fire. Three members of this SEAL team were killed by enemy fire and 2 tried to evade a vastly superior enemy force.

The special operations forces were engaged in Operation Red Wings, an effort to defeat terrorists operating in Kunar province. The operation was part of a larger campaign by U.S. and Afghan forces to kill and capture fighters from hideouts in eastern Afghanistan.

On behalf of the United States Congress and its people—I extend my sincerest condolences to the families of these brave Navy SEALs and Army Special Operations Aviators. They need to know that the prayers of a nation are with them at this most difficult time.

These men bravely and unsellishly answered the nation’s call to defend freedom and protect America and its allies from terrorism. We want the families to know the deaths of their loved ones, their sons, husbands and fathers, will only strengthen our resolve for ultimate victory in the Global War on Terror.

I would now like to pay tribute to those that paid the ultimate price for our freedom.

Assigned to the Army’s 3rd Battalions, 160th Special Operations Aviation Regiment (Airborne), Hunter Army Air Field, GA: Staff Sgt. Shamus O. Goare, 29, of Danville, OH; Master Sgt. James W. Ponder III, 36, of Jacksonville, FL; Chief Warrant Officer Corey J. Goodnature, 40, of Jacksonville, FL.

Sgt. 1st Class Marcus V. Murrells, 33, of Shelbyville, IN; Maj. Stephen C. Reich, 34, of Washington Depot, CT; Sgt. 1st Class Michael L. Russell, 31, of Stafford, VA; Staff Sgt. Kip A. Jacoby, 21, of Pompano Beach, FL; Staff Sgt. Christopher K. Schenkenbach, 40, of Jacksonville, FL.

Assigned the Army’s Headquarters and Headquarters Company, 160th Special Operations Aviation Regiment (Airborne), Fort Campbell, KY: Master Sgt. James W. Ponder III, 36, of Franklin, TN; Chief Warrant Officer Jacques J. Fontan, 36, of New Orleans, LA.
Mr. NEY. Mr. Speaker, whereas, Chillicothe's Kenworth Plant has provided a new milestone truck of which immense pride is accredited; and

Whereas, Chillicothe's Kenworth Plant has celebrated the completion of truck No. 250,000; and

Whereas, Chillicothe's Kenworth Plant employs approximately 1,700 people with great distinction.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in recognizing Chillicothe's Kenworth Plant for its impressive accomplishment.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. GALLEGLY. Mr. Speaker, on Monday, July 25, 2005, I was unable to vote to suspend the rules and pass H.J. Res. 59, sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women's suffragists (rollcall 417); H. Con. Res. 181, supporting the goals and ideals of National Life Insurance Awareness Month (rollcall 418); and H. Res. 376, expressing the sense of the House that the Federal Trade Commission should investigate the publication of the video game “Grand Theft Auto: San Andreas” to determine if the publishers intentionally deceived the Entertainment Software Rating Board to avoid an “Adults-Only” rating (rollcall 419). Had I been present, I would have voted “yea” on all three measures.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 AND 2007

SPEECH OF
HON. DARRELL E. ISSA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 20, 2005

The House in Committee of the Whole on the State of the Union had under consideration the bill (H.R. 3064) to authorize appropriations for the Department of State for fiscal years 2006 and 2007, and for other purposes:

Mr.issa. Mr. Chairman, I had submitted an amendment made in order by the rule to strike proposed changes to U.S. economic and military aid to Egypt because of concerns I have that these changes may harm the U.S.-Egypt security relationship. I decided not to offer this amendment.

Egypt is a friend and ally of the United States and their contributions in Iraq, Afghanistan, and the global war on terrorism have made important contributions to our security and that of our military personnel serving abroad. Egypt is also a source of stability and leadership in the Middle East—they played an important role in convincing Syria to withdraw its military from Lebanon and have made important efforts to support peace and security for Israelis and the Palestinians.

Consider Egypt's role in Iraq alone. From the beginning of U.S. operations there, Egypt has provided transit and landing rights and overflight rights. Egypt permitted emergency transit of the Suez Canal when the 4th Infantry Division was not permitted to stage from Turkey, saving weeks of transit time around the Horn of Africa. Moreover, since the U.S.S. Cole was attacked in 2000 at the entrance to the Red Sea, Egypt has provided the increased security necessary to prevent any attacks on U.S. forces transiting through the Suez Canal or other Egyptian facilities. Egypt sent an ambassador to the new government in Iraq to help support the new and democratic government that has been chosen by the Iraqi people. Sadly, the Egyptian ambassador to Iraq, Ihab al-Sharif, was kidnapped and murdered by the same insurgents who have claimed 1,775 lives of our troops.

Egyptians, like the people of the United Kingdom, have also been the victims of terrorism committed by Islamic extremists. The recent terrorist bombing in Sharm el-Sheikh against the people and Government of Egypt was a clear strike against a partner in the global war on terrorism. The need for continued security and military cooperation between the U.S. and Egypt could not be clearer.

Because of the contributions Egypt has made as a valued friend and ally, many of my colleagues, the administration, our military leaders at CENTCOM, have expressed deep concern that the changes to military assistance proposed in section 921 of the Foreign Relations Authorization Act could significantly harm the U.S.-Egypt security relationship that has been so critical for our efforts to promote peace between Israel and the Arab world and our ability to stop terrorist attacks. I also have concerns about whether the proposed restructuring of economic aid to Egypt contained in section 921 will actually yield substantive benefits for the Egyptian people.

Mr. Chairman, my district is home to Marine Corps Base Camp Pendleton. The safety of Marines from Camp Pendleton serving in Iraq is significantly increased due to support provided by Egypt. Without the active support of Egypt for U.S. operations in Iraq, transit times for U.S. ships to the theater of operations would be considerably longer and more dangerous. Supplying troops in Iraq would also take longer and cost more. And finally, without Egyptian leadership in the Arab world, the political reconstruction of Iraq would be even more complicated and far-off.

I think most important, Mr. Chairman, is the fact that our Marines from Camp Pendleton will be able to come home, and stay home, in only one way: when Iraqi security forces are finally able to provide stability in their own country. This goal will be achieved more quickly because of efforts being made by Egypt to train Iraqi security personnel.

Maintaining the close working military-to-military relationship developed with Egypt over the past 26 years is important to successfully completing our mission in Iraq and bringing American troops home. Fundamentally altering that relationship seems ill-advised to me. We must be certain that the actions we take enhance his ability to fight the war on terrorism whether in Iraq, Afghanistan, or anywhere else in the region.

Mr. Chairman, despite my concerns I recognize that Chairman Hyde and I share common goals of strengthening America’s security relationship with Egypt and helping the people of Egypt build strong democratic institutions and a vibrant free market economy. I would also add that I support his efforts and those of the ranking member, Mr. Lantos, to seek new ways to strengthen U.S.-Egypt relations.

I would, furthermore, like to thank Chairman Hyde and Ranking Member Lantos for agreeing to continue to work with me and the administration in order to protect our national interests and to help Egypt achieve the economic and political reform it needs.

RECOGNIZING DAN SCHAB,
MICHIGAN TEACHER OF THE YEAR

HON. MIKE ROGERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. ROGERS of Michigan. Mr. Speaker, today I rise to pay tribute to Dan Schab on his selection as Michigan's 2005-2006 Teacher of the Year.

Over his 24 year career, Dan Schab has helped to inspire and enlighten students across mid-Michigan. He has worked tirelessly to help his students explore the concept of mathematics and learn both the importance of education and the power of knowledge. In addition to his work in the Williamston School District and at Lansing Catholic Central High School, Mr. Schab has also served on the national level. He assisted in developing meaningful national education strategies through his work as an Einstein Fellow with the U.S. Senate Education Committee in 2003.

Dan Schab has been consistently recognized as one of the best teachers in America. Over his career, he has been recognized time and time again for his dedicated service to his school, his students, and his community. In
2000, he participated in the prestigious Toyota International Teacher Program. In 1987, he received the Excellence in Education Award from the Lansing Regional Chamber of Commerce, and in 1987 he was chosen as Lansing Catholic Central High School’s First Teacher of the Year Professional Excellence Award Winner. But despite these many recognitions, Dan still believes that the work he does with his students is his greatest success. His dedication to teaching can be seen on a daily basis when he stays well after school hours to offer additional assistance or develop new ways to show his students the significance of math in daily life.

Mr. Speaker, education is the cornerstone of our economy and great teachers lay the foundation for greater prosperity. I wish to extend my gratitude to Dan Schab for his many years of service to his students. I ask my colleagues to join me in recognizing Mr. Schab for his years of dedication to teaching and his recent selection as Michigan’s Teacher of the Year.

PERSONAL EXPLANATION

HON. DAVE WELDON
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. WELDON of Florida. Mr. Speaker, due to the launch of the Space Shuttle Discovery early Tuesday morning, I was unable to be present for votes on Monday evening. Had I been present, please let the official Record reflect that I would have voted in favor of the following three bills: H.J. Res. 59—Sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists; H. Con. Res. 181—Supporting the goals and ideals of National Life Insurance Awareness Month; and H. Res. 376—Expressing the sense of the House of Representatives that the Federal Trade Commission should investigate the publication of the video game “Grand Theft Auto: San Andreas”.

A PROCLAMATION RECOGNIZING JAY BAIRD

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Jay Baird has provided outstanding service and contributions to Licking County serving two terms as Licking County Commissioner; and Whereas, Jay Baird has served the people of Licking County with dedication, diligence, and goodwill; and Whereas, Jay Baird is an asset treating everyone with respect and a sense of priority, carrying out his duty to the people; and Whereas, Jay Baird is greatly appreciated by all who have worked with him. He is to be commended for the help that he provided to the citizens of Pataskala and the residents of Licking County.

Therefore, I join with members of Congress and their staff in recognizing Jay Baird for his exceptional work and immense contributions, and wish him the very best in future endeavors.

CELEBRATING THE BIRTH OF MISS CAMPBELL GRACE HALME

HON. JOE WILSON
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Tracy and Matthew Halme of Tampa, Florida, on the birth of their beautiful baby girl. Campbell Grace Halme was born on July 20, 2005, weighing 7 pounds, 7.5 ounces and measuring 21 inches long. Campbell has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing.

COMMEMORATING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. MAJOR R. OWENS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. OWENS. Mr. Speaker, the Americans with Disabilities Act of 1990 (ADA) profoundly improved the lives of approximately 54 million people with disabilities. Before the ADA, employers routinely fired workers with disabilities, refused to hire those with disabilities, and denied individuals with disabilities the basic rights and protections that other citizens enjoy. The ADA is a landmark piece of legislation that provides a way for people with disabilities to have equal access to public services, transportation and telecommunications.

On July 26, 1990, George H.W. Bush signed the ADA, transforming America into a more accessible country. The ADA gave people with disabilities the right to be accommodated in the workplace, a fair grievance process for discrimination suits, equal access to public services, transportation and telecommunications. People with disabilities are no longer unnecessarily shut away; they have the ability to counteract discriminatory practices and have a fair chance to become productive members of society.

I enthusiastically support the Hoyer Resolution commemorating the 15th Anniversary of the ADA, the largest civil rights achievement since the Civil Rights Act of 1964. By celebrating and recognizing the 15th Anniversary of the ADA, Congress honors the United States’ commitment to equality and justice. I hope that by recommitting Congress to the full enforcement and support of the ADA, all members will work harder to reduce the still-high unemployment rate among people with disabilities with the capacity to work. I urge my colleagues to support this resolution that recognizes the enormous potential impact of this untapped workforce in our global economy.

TRIBUTE TO MRS. AMANDA PEACH SMITH

HON. ROBERT A. BRADY
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor one of my most distinguished constituents, Amanda Peach Smith. Mrs. Smith, who everyone knows as Aunt Sam turned 100 years old today.

Aunt Sam has a close and loving relationship with her community and with her God. She has been a member of the historic Union Baptist Church since 1927, shortly after her arrival in Philadelphia. A long time usher there, she was a part of the congregation that nurtured and supported Marion Anderson, Philadelphia’s most famous opera singer.

Mr. Speaker, Mrs. Smith is known for her love of gardening and flowers. In so many ways, she has brought beauty and joy to all of us.

I know that all my colleagues will join me today in wishing her a happy 100th birthday.

SUPPORT FOR JUDGE JOHN ROBERTS

HON. BILL SHUSTER
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. SHUSTER. Mr. Speaker, I would like to voice my strong support for the President’s Supreme Court nominee Judge John Roberts. His personal qualifications are exemplary and are more than befitting for a Supreme Court Justice.

Judge Roberts’ educational record speaks for itself. He graduated Summa Cum Laude from Harvard in only 3 years and also received his law degree with high honors. Additionally, he served as an editor of the Harvard Law Review.

I believe that Judge Roberts will be fair and non-partisan and serve America’s highest court well. According to The National Journal, “John Roberts seems a good bet to be the kind of judge we should all want to have—all of us, that is, who are looking less for congenial ideologues than for professionals committed to the impartial application of the law.” Likewise, his personal integrity is unquestionable. For example, Judge Roberts argued the case of Barry v. Little in which he represented a class of the neediest welfare recipients.

Republicans and Democrats alike have also acknowledged Judge Roberts’ outstanding character. Democratic lawyers Lloyd Cutler and Seth Waxman and former Republican White House Counsel C. Boyden Gray have cited his “unquestioned integrity and fairmindedness.”

Mr. Speaker, it is clear that Judge Roberts offers everything we could ask for in a Supreme Court nominee. I therefore urge the Senate to hold fair and speedy hearings in order to fill this vacancy as soon as possible.
A PROCLAMATION CELEBRATING THE ACHIEVEMENTS OF AMBASSADOR ALBERT RAMDIN

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Ambassador Albert Ramdin is well prepared to serve as Assistant Secretary General of the Organization of American States during the 35th Regular Session of the General Assembly; and

Whereas, Ambassador Albert Ramdin has dedicated his life to public service having displayed his vast array of talents in multiple arenas such as Senior Adviser to the Minister of Trade and Industry of Suriname, Chairman and member of several national policy development committees including the “Establishment of the Investment Fund” and “Privatization of State Enterprises” committees, Adviser to the Minister of Foreign Affairs, the Minister of Finance of Suriname, and Suriname’s non-resident Ambassador to Costa Rica, among other endeavors; and

Whereas, Ambassador Albert Ramdin has had an extensive history with the Organization of American States including chairing the Permanent Council and the Inter-American Council for Integral Development, and serving as Ambassador Extraordinary and Plenipotentiary and Permanent Representative; and

Whereas, Ambassador Albert Ramdin’s distinguished involvement with the Caribbean Community has involved serving as Co-Chair of the Central America High Level Technical Committee and as Assistant Secretary-General for Foreign and Community Relations.

Therefore, I join with the family, friends, and colleagues of Ambassador Albert Ramdin to honor and congratulate him in his new position of Assistant Secretary General of the Organization of American States.

SUPPORTING GOALS OF NATURAL MARINA DAY AND URGING MARINAS CONTINUE PROVIDING ENVIRONMENTALLY FRIENDLY GATEWAYS TO BOATING

SPEECH OF
HON. TIMOTHY H. BISHOP
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Monday, July 25, 2005

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of H. Res. 308, a bill supporting the goals of National Marina Day, and urging that marinas continue providing environmentally friendly gateways to boating.

In my district on Eastern Long Island, business associated with local marinas is important to vast numbers of residents alike. The tourism and fishing industries are two of the most contributing elements of the local economy, and marinas help these economic engines create much needed revenue throughout Brookhaven and the five East End Towns. There are more than 12,000 marinas nationally that benefit local communities by providing safe and reliable gateways to boating. The marinas of the United States serve as stewards of the environment, and they actively protect the waterways that surround them for current and future enjoyment.

The Marina Operators Association of America has designated August 13, 2005, as National Marina Day to increase awareness among citizens and elected officials about the many contributions marinas make to communities, and it is important that Congress support this initiative.

As vacationers throughout the country flock to the coasts for well-deserved vacations, it is important that we recognize the significance of marinas. I therefore enter the Marshal Operator’s support for National Marina Day and urge my colleagues to do the same.

PERSONAL EXPLANATION

HON. TOM COLE
OF OKLAHOMA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. COLE of Oklahoma. Mr. Speaker, on Monday, July 25, 2005, I was unavoidably detained on official business overseas.

I respectfully request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: Rollcall No. 417: “Yes” (On motion to suspend the rules and agree to H.J. Res. 59); Rollcall No. 418: “Yes” (On motion to suspend the rules and agree to H. Con. Res. 181); and Rollcall No. 419: “Yes” (On motion to suspend the rules and agree to H. Res. 376).

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. WILLIAM J. JEFFERSON
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. JEFFERSON. Mr. Speaker, fifteen years ago—on July 26, 1990—our great nation made a promise to the disabled community that we have a moral obligation to keep. We said no to discrimination. We said no to sanctioned inequality. We said yes to inclusion and equality.

Today marks the 15th Anniversary of the enactment of the Americans with Disabilities Act (ADA), the most sweeping civil rights legislation since the Civil Rights Act.

I am immensely proud to have been a part of reauthorization efforts of this important legislation, and I will never forget all of the advocates for the disabled at the signing ceremony on the South Lawn at the White House. This landmark law sent an unmistakable message: It is unacceptable to discriminate against someone simply because they have a disability. Moreover, it is illegal—in employment, in transportation, in public accommodations, and in telecommunications.

The ADA recognized that the disabled belong to the American family; that a disability need not be disabling. Disabled Americans can share in all our Nation has to offer—equality of opportunity, full participation, independence, living, and economic self-sufficiency.

Over the last 15 years, the ADA has allowed hundreds of thousands of Americans to join the workforce, attend school, travel, or drive a car—many for the first time in their lives. The ramps, curb cuts, Braille signs, and captioned television programs that were once novel are now ubiquitous.

However, the first 15 years of the ADA have not been without challenge. Too often, the intent of the ADA has been misconstrued by our courts, which have given it a narrow construction that its authors never intended.

To date, people with diabetes, heart conditions, cancer and mental illnesses have had their ADA claims kicked out of court because, with improvements in medication, they are considered too functional to be considered disabled.

Together, these decisions represent a dangerous slipping away at the foundation of equality which we poured 15 years ago when the ADA was enacted. And they are a reminder as we commemorate this 15th Anniversary that our work is not done.

This is clearly not what Congress intended when it passed the ADA and the first President Bush signed it into law. We intended the law to be given a broad construction, not a narrow one.

Today, let us renew our commitment to the principles and spirit of the ADA—a law that benefits our great Nation, which stands for liberty and freedom. Today, let’s commit to keep the promise we made when we enacted the ADA, because while its promise remains unfulfilled, it still is within reach.

Thus, I join my Congressional colleagues and demand that we commit ourselves to expanding opportunities for individuals with disabilities and all Americans. Only then will we live up to the ideals of equality and opportunity.

RECOGNITION OF PETER DERBY

HON. CHARLES H. TAYLOR
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. TAYLOR of North Carolina. Mr. Speaker, staff do not often receive proper recognition for the hard work they do in government for either Congress or the agencies. Many of us would like to thank one of those deserving of such recognition. That person is Peter Derby, the Managing Executive for Operations and Management at the Securities and Exchange Commission.

Mr. Derby has announced that he will leave the SEC at the end of July. He will be leaving a legacy of hard work and accomplishment at that agency. Chairman William Donaldson praised Mr. Derby thusly: “Peter has played a critical role as a trusted Member of our senior management team during a critical period at the Commission. He was instrumental in increasing the operational efficiency and effectiveness at the Commission and served with distinction and integrity. Peter will leave a strong and lasting legacy at the Commission.”

Prior to joining the SEC, Mr. Derby was involved in a wide array of public service ventures which left him well prepared to take over a position of such importance. Peter served as an elected member of the
Board of Trustees of the Village of Irvington-on-Hudson, NY. Derby spent a decade in Russia, where at the forefront of democratizing that nation’s markets and banking infrastructure. He participated in the founding of DialogBank in 1990, the first private Russian bank to receive an international banking license. He moved rapidly through the ranks and was named Chairman of the Board of this institution in 1997. In addition, Derby founded the first Russian investment firm, Troika Dialog. Prior to Derby’s time in Russia, he was a Corporate Finance Officer at National Westminster Bank from 1985–1990 and an Auditor at Chase Manhattan Bank.

Mr. Derby worked seamlessly with Chairman Donaldson to repair the damaged image of our Nation’s corporations and financial markets. In addition to improving the overall efficiency of SEC operations, Derby oversaw the creation of the Risk Management Program to create a more proactive posture. He also produced the first-ever audited financial statements of the SEC as well as leading the development of an implementation program for aligning facilities, technology and organizational systems with the agency’s strategic themes.

Mr. Speaker, I know that my colleagues will join me in giving thanks to Peter Derby for his service to our Nation in a time of challenge. It is reassuring to the United States to know that there are people who will give time from their lives to help our country.

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A PROCLAMATION RECOGNIZING THE KENYA CANNING COMMITTEE UNDER THE DIRECTION OF KEITH COPE

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Keith Cope and the congregation of Leesville Faith Community Chapel began a ministry for the 1,000 members of Pastor John Okinda’s church in Migiuri, Kenya; and

Whereas, the Kenya Canning Committee is committed to collecting two separate shipments of 30,000 jars with the purpose of teaching the Kenyan congregation to properly store food through canning to reduce the repercussions of famine and starvation;

Whereas, the Kenya Canning Committee has also raised $45,000 to supply the congregation with a tractor and are planning to raise funds to purchase a water tank all to aid in their quest to end starvation in Migiuri, Kenya; and

Whereas, previous shipments enabled Pastor Okinda’s members to successfully can food for the first time in June, 2005.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating the Kenya Canning Committee under the direction of Keith Cope for their outstanding accomplishments and best wishes for all their future endeavors.

PERSONAL EXPLANATION

HON. PATRICK J. TIBERI
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. TIBERI. Mr. Speaker, on Monday July 25, 2005, I was delayed in returning to Washington, DC from Columbus, OH due to inclement weather. As a result, I was unable to record a vote on rollcall No. 41–H. Res. 59, No. 418–H. Con. Res. 181, and No. 419–H. Res. 379. I support these measures and had I been present, I would have voted “yea” on rollcall Nos. 417, 418 and 419.

IN MEMORY OF SPECIALIST MICHAEL R. HAYES

HON. PETE SESSIONS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor U.S. Army Specialist Michael R. Hayes, an American hero who lost his life in defense of liberty and freedom. He made the ultimate sacrifice so that others might know freedom, and I am humbled by his bravery and selflessness.

Spc. Michael Hayes was killed on June 14, 2005 when a rocket-propelled grenade hit his Humvee while he and four other Marines were providing security around a suspected explosive device near Baghdad. He was 20 years old. Spc. Hayes was assigned to the 617th Military Police Company, Kentucky Army National Guard at Richmond, KY. In addition to his family, fiancee and country, Spc. Hayes loved soccer. He founded the girls’ soccer program at Butler County High School of Kentucky six years ago and was a devoted coach. He took this love from the soccer fields to the streets of Iraq where he took particular pride in seeing the children attend their newly built and refurbished schools. He wrote often of the Iraqi children and how their smiles brought him comfort. His leadership, dedication and enthusiasm will be missed.

He is survived by his mother, Barkley Hayes, fiancee, Melissa Allen, sister, Spc. Melissa Steward, and brother, Spc. James Hayes, both of whom serve in the 617th Military Police Company.

I want to thank his family for raising such a fine man. As the father of two sons, I know their sacrifice is indescribable. Spc. Hayes leaves behind a legacy marked by courage, integrity and character. It is an honor and a privilege to represent his family in Congress. May God bless them, and may I convey to them the many thanks of a grateful Nation.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Ms. BROWN-WAITE of Florida. Mr. Speaker, on July 25, I was detained in Florida due to a doctor’s appointment and as a result, missed the day’s votes. I ask that my absence be excused and the CONGRESSIONAL RECORD shows that had I been present: for rollcall No. 417—the motion to suspend the rules and pass H. J. Res. 59, I would have voted “yea”; for rollcall No. 418—the motion to suspend the rules and pass H. Con. Res. 181, I would have voted “yea”; and for rollcall No. 419—the motion to suspend the rules and pass H. Res. 376, I would have voted “yea.”

THE STAKES IN CAFTA

HON. JUDY BIGGERT
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mrs. BIGGERT. Mr. Speaker, I submit the following article for the RECORD:

(From the Washington Post, July 26, 2005)

The House is getting ready to vote on the Central American Free Trade Agreement (CAFTA), a deal that would bind the five nations of Central America plus the Dominican Republic to the U.S. economic strictures. From a commercial standpoint, it’s curious that most Democrats in the House resist the agreement. Seventy percent of Central American exports already enter the United States without tariffs, so the main effect of the deal will be to open the region to U.S. products. But the political argument for CAFTA is at least as compelling. While the United States has been focusing on terrorism, a new challenge has been brewing in its own hemisphere. House members should consider this challenge before voting to slam the door on Central America’s pro-American leaders.

For much of the post-Cold War period, U.S. anxieties in Latin America seemed to be fading. The disintegration of the Soviet Union left Cuba’s Fidel Castro without subsidies, undermining his power to buy influence in the region. The peace process in Central America succeeded, ending leftist insurgencies in El Salvador and Guatemala and leading to elections in Nicaragua that proved its Marxist government already had displaced often populist dictatorships across South America; in Mexico, a pro-American, pro-market presidential candidate succeeded against a growing and traditionally leftist Institutional Revolutionary Party. The remaining U.S. problem in Latin America was the drug war. Although the cartel’s cartels might be ruthless, they were not trying to rally Latin Americans behind an anti-Yanqui banner.

In the past few years, however, an attempt has been made to revive the political challenge once represented by Mr. Castro. It centers on Venezuela’s Hugo Chavez, who combines Castroite rhetoric with the financial clout of Venezuela’s oil. Chavez has spread his money around the region, sponsoring anti-American and anti-democratic movements and promoting alternatives to U.S. initiatives. To counter the U.S. trade agenda, for example, he has put forward a “Bolivarian Alternative.” This has given critics of the United States something to advocate. El Nuevo Diario, a Nicaraguan newspaper that is critical of CAFTA, praised the Bolivarian Alternative recently, asserting that “America is for the Americans, not for the North Americans. “ In Costa Rica critics of CAFTA who draw inspiration from Mr. Chavez have made no secret of the fact that they oppose the deal because they oppose the United States.

Most House Democrats don’t want to hear this; they claim that CAFTA is opposed by
ADA whereby individuals may be considered.

Courts have also issued rulings interpreting the

Percentage of people without disabilities.

Federal

Transportation and communications.

Established landmark civil rights protections.

Ticket to Work Act also created state options to eliminate the dilemma faced by many individuals receiving disability benefits—choosing between work and health insurance coverage. The Ticket to Work Act allows States to adopt a Medicaid "buy-in" program to permit individuals to maintain Medicaid coverage while still working. Finally, the measure extended Medicare Part A coverage to working SSDI beneficiaries for a total of 5½ years—4 years beyond the coverage previously provided by Medicare.

As our Nation celebrates the 15th anniversary of the ADA, let us re dedicate ourselves to carry out the commitment of that historic legislation.

**Personal Explanation**

**Hon. Solomon P. Ortiz**

**Of Texas**

In the House of Representatives

Tuesday, July 26, 2005

Mr. ORTIZ. Mr. Speaker, due to important congressional business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below: rollcall No. 417: yes; rollcall No. 418: yes; and rollcall No. 419: yes.

**Congratulations to Tom Cleveland**

**Hon. Michael C. Burgess**

**Of Texas**

In the House of Representatives

Tuesday, July 26, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the outstanding performance of Officer Tom Cleveland at the World Police and Fire Games in Quebec City, Canada. The World Police and Fire Games, the second largest international sporting event, has been a longstanding tradition for Law Enforcement Officers and Firefighters in several countries throughout the world. This international event takes place every other year as a chance for them to showcase their athletic abilities.

This year, Tom’s determination and drive led him to be one of the best among the 10,000 competitors from 51 countries worldwide. He finished 3rd in the 400 Int. Hurdles, 5th in the 110 High Hurdles and 12th in the Toughest Competitor Alive competition.

I am proud to recognize Officer Tom Cleveland a fine citizen and athlete. We are proud of his accomplishments and to have him represent and serve the North Richland Hills Community, the 26th District of Texas, and our great Nation.

**A Proclamation Honoring Jim Carnes on the Occasion of His Retirement from the Ohio Department of Natural Resources**

**Hon. Robert W. Ney**

**Of Ohio**

In the House of Representatives

Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Jim Carnes served the people of the State of Ohio as a State Senator from 1995 until 2004 representing the former twentieth Senate district, having over forty pieces of legislation passed into law during his terms in office; and

Whereas, Jim Carnes has been among the most well-liked and well-respected men, noted for his energetic spirit and dedication to his job; and

Whereas, Jim Carnes will be deeply missed by all who have had the privilege to work with him.

Therefore, I join with my fellow colleagues, family, and friends in thanking Jim Carnes for his service to the State of Ohio and wish him the very best on the occasion of his retirement.

**Tribute to Maxine Freemyer—The Perfect Older American**

**Hon. Marilyn N. Musgrave**

**Of Colorado**

In the House of Representatives

Tuesday, July 26, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor Maxine Freemyer. Maxine Freemyer is the perfect example of a successful older American. At 93 years young, she refuses to allow her advancing age, failing eyesight or...
other health problems get her down. She makes every day count.

As a long-standing volunteer at the Bent County HealthCare Center, she has dedicated the past 25 years to helping the elderly. Some of the duties she has willingly performed include serving breakfasts each day, communicating with family and friends on their behalf, and just spending time listening to the residents reminisce about the past.

She has received several prestigious awards for her volunteerism, including Colorado Volunteer of the Year and the Colorado Cares award presented by Governor Bill Owens. Serving others is her passion, which helps keep her active and spry.

Maxine Freemoyer's gardening abilities are second to none. Her hard work and special skill in tending to her flowers are showcased in a dazzling display of color from early spring until late fall. Her magnificent garden is a gift to her neighbors and community.

Caring, compassionate, hard working and dedicated are all words that describe Maxine. Her zest for life is inspiring to young and old alike. I am proud to represent such an individual in the U.S. Congress.

IN RECOGNITION OF 20 YEARS OF SERVICE BY PASTOR BERNARD YATES TO THE ZION HOPE PRIMITIVE BAPTIST CHURCH

HON. JEFF MILLER
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today to extend my congratulations to Pastor Bernard Yates for having served as the pastor to the Zion Hope Baptist Church in my district for 20 years.

Since 1985, Pastor Yates has led the growth of the Zion Hope congregation from approximately 300 to over 2,000 members, with three Sunday services and a major mid-week service as well. Pastor Yates initiated the Zion Hope Center, which is a 42-unit complex of Biblical Study, and launched the Young-at-Heart ministry. These three ministries are just a few examples of the many ministries that he has helped start within the church.

Pastor Yates is joined in much of his work by Vonda Yates, his wife of 23 years. Together, they have worked diligently through Bible studies and writing to help families live Godly lives. Vonda is known for her work with women's conferences as well, while Bernard is called upon to speak at men's conferences and retreats across the Nation.

The selfless contributions of this man are not limited to just one church; Pastor Yates has also been a civic leader, dedicating time to the Boys and Girls Club, the Fellowship of Christian Athletics, a special community advisory board for the county commissioners, advisory for the Escambia County Sheriffs Office, and the Escambia County School District. His wisdom is regarded just as highly at a meeting table as it is at the pulpit.

Mr. Speaker, on behalf of the United States Congress, I would like to offer my sincere congratulations to a man who could serve as a role model to us all. A deep sense of personal service to a congregation for 20 years is something to truly be admired, and I am thankful for his dedication to the Zion Hope Primitive Baptist Church.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 2005

HON. NICK J. RAHALL II
OF WEST VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to reauthorize two important aspects of the National Historic Preservation Act. Specifically, my legislation will extend authorization for deposits into the Historic Preservation Fund through 2011 and will permanently authorize funding for the Advisory Council on Historic Preservation. In effect, we are extending authority for the money and expertise necessary for the Historic Preservation Act to continue fulfilling its purpose.

Allowing the Act to continue fulfilling its purpose is critical. As Americans, we revere our past. The individuals, cultures, institutions and events which precede our arrival at this place and time provide insight not only into who we are today, but also who we aspire to be tomorrow. This is the notable history of our nation, the 513-year history of Europeans in North America, and it is especially true for the tens of thousands of years of Native American history on this land.

Preserving this rich tapestry of cultures and traditions is an integral part of our national identity, and it is important to the future. The piece of federal historic preservation is the National Historic Preservation Act. Enacted in 1966, the Act provides an array of tools, as well as a funding source, which are central to preserving that which came before us.

One of those tools is the Advisory Council on Historic Preservation which has two important roles under the Act. One is to assist the Secretary of the Interior in cataloguing and preserving known historic resources through the National Register of Historic Places and other programs. In addition, the Council assists all federal agencies in avoiding damaging or destroying historic resources through consultation under the Act. The Council is not empowered to control agency decision-making or federal policy.

Last reauthorized for five years in 2000, the Council is made up of Agency heads and Presidential appointees with diverse backgrounds. My legislation recognizes the critical importance of the Council by providing it permanent authorization while also making several technical changes in the Council's make-up and operation.

In addition, this bill will extend authorization for deposits into the Historic Preservation Fund for the next six years. The Fund is administered by the National Park Service and provides matching grants to states and territories for a variety of historic preservation programs including statewide historic preservation surveys and preservation plans. The Fund also provides matching grants to Indian Tribes, Alaskan Natives, Native Hawaiians and Historically Black Colleges and Universities for cultural heritage projects and the preservation of historic structures.

The source for the Historic Preservation Fund is a small percentage of the enormous revenues generated by oil and gas development in the Outer Continental Shelf. This legislation would allow that funding to continue flowing into the Fund through 2011.

Mr. Speaker, it is my hope that we can move forward quickly on this legislation to allow the Council and the Fund to continue working. This legislation is nearly identical to a companion bill in the Senate as well as legislation introduced in the previous Congress which received the support of the Advisory Council, the National Park Service, and the Historic Preservation Community.

These are vital programs serving to preserve and protect the story of American and its people.

A PROCLAMATION HONORING ROMAN BUILDER AND MARY JABLONICKY BUILDER

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEY. Mr. Speaker, whereas, Roman and Mary Buhler have dedicated their lives to each other; and

Whereas, Roman and Mary Buhler have shown the love and commitment necessary to live a long and beautiful life together; and

Whereas, Roman and Mary Buhler have chosen to share their special day with family and friends.

Therefore, I, join with the residents of the entire 18th Congressional District of Ohio in congratulating Roman and Mary Buhler on the occasion of their marriage.

COMMENDING THE LAUNCH OF THE SPACE SHUTTLE “DISCOVERY”

HON. JEB HENSARLING
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. HENSARLING. Mr. Speaker, today is a truly momentous day in the history of our space program. The liftoff of the Space Shuttle Discovery is significant achievement for the National Aeronautics and Space Administration (NASA). It is also a solemn tribute to the astronauts who lost their lives in the wake of that tragedy.

Two years ago, on a quiet Saturday morning, millions of Americans witnessed the tragic loss of the Space Shuttle Columbia and its seven heroic crewmembers in the skies over East Texas. While we will never be able to bring back the crew of Space Shuttle Columbia, I am pleased to see our space program reaching for the stars once more by launching the first shuttle since the Columbia disaster.

The crew of the Discovery, and their support team at NASA, have been working hard to get our shuttle program back on track. To increase the safety of the crew, the scientists at NASA have made multiple improvements on the shuttle. The Columbia accident investigation board made 15 recommendations that have been implemented for this flight, as well as 29 other improvements to launch, orbit, and reentry procedures. Commander Eileen Collins
and her crew, James Kelly, Andrew Thomas, Wendy Lawrence, Charles Camarda, Stephen Robinson, and Soichi Noguchi are piloting the safest, most sophisticated, and most reliable spacecraft ever built.

This successful lift off, NASA’s 114th shuttle mission, was a triumphant event. It is important that we remember the dangerous nature of space flight and exploration. As President Ronald Reagan said after the loss of the Space Shuttle Challenger, “We’ve grown used to the idea of space, and perhaps we forget that we’ve only just begun.”

This week, I congratulate the scientists and technicians who are upholding the greatest traditions of America’s space program. We recognize the spirit and courage of the space shuttle’s crew. We thank the countless number of East Texans that helped in the search for evidence and answers in the wake of the Space Shuttle Columbia tragedy. And finally, we honor the memory of those brave men and women who have gone before in the name of exploration and in the quest for discovery.

HONORING KEVIN BRAGG ON THE COMPLETION OF HIS INTERNSHIP

HON. BART GORDON
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the many contributions Kevin Bragg has made while interning in my Washington, DC, office. Kevin has been a wonderful addition to the office and a great servant to the constituents of Tennessee’s Sixth Congressional District.

But Kevin must return to Murfreesboro, the hometown we share. This fall, Kevin will begin his senior year at the University of Tennessee, where he is a political science major and a member of the Pi Sigma Alpha honor society.

During his internship, Kevin won over the entire staff with his ever-present eagerness and genuine interest in public affairs. He has attended briefings, addressed constituent concerns, and served as a friendly and informative tour guide of the U.S. Capitol, providing visitors from Middle Tennessee with a personalized look at a national treasure.

I hope Kevin has enjoyed his internship as much as my staff and I have enjoyed his presence in the office. I wish him all the best in the future.

THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to recognize the importance of the fifteenth anniversary of the passage of the Americans with Disabilities Act, the ADA. This legislation has played a vital role in ensuring that all Americans are granted the opportunity to fully participate in all aspects of society.

With the bipartisan support of this body and the Senate, President George H.W. Bush signed the Americans with Disabilities Act as a mechanism to ensure that “every man, woman and child with a disability can now pass through once closed doors into a bright new era of equality, independence, and freedom.”

Thanks to the ADA, we have taken significant steps towards the achievement of that goal. The Act required educational facilities to become accessible to those in wheelchairs, opening the doors to learning and opportunity for thousands of Americans. It ensured the availability of transit, entertainment, and commercial accommodations for the visually impaired and the blind, guaranteeing them an opportunity to participate in cultural events, media events, and public engagements.

The ADA has substantially moved this country forward in terms of our relationship with a group of Americans who had once been unfairly excluded for their physical abilities. We have taken important steps to increase the opportunities and lower the barriers to the equal and just treatment of all Americans. We have opened doors through the ADA for the full participation and contribution of individuals to our society.

Despite the efforts of the last decade and a half, we still have further to go. We still have more work to do to assist our citizens with disabilities. Today, approximately two-thirds of people with disabilities of working age are still unemployed. While many factors influence the high rate of unemployment for the disabled, a third of non-workers with disabilities reported their need for some type of accommodation as a major factor in their unemployment. An interesting aspect of this is that requests are still accommodated—elevators, closer accessible parking, and special workplace features modifications that are not particularly expensive to make, especially with advance planning.

Likewise, proposed cuts in housing, assistance technology, training, and other assistance programs threaten to undo many of the advances we have made in the last 15 years to help those with disabilities.

Whether it is the costs involved or the unwillingness to reach out to this brave segment of our national workforce, people with disabilities are still discouraged from opening some doors of opportunity. They still need more assistance in their fight for justice. I encourage the Members of this chamber, as well as citizens and employers across the country, to pursue reinvigorated efforts at ensuring that every man, woman, and child is afforded an opportunity to succeed. Let us find ways to help every citizen build a better life as we create the conditions for a better America.

THANK YOU, BONNIE RINALDI

HON. JON C. PORTER
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize the contributions of Bonnie Rinaldi. Bonnie recently retired from the position of Henderson’s Assistant City Manager on July 14th, and will be sorely missed by all.

Bonnie’s public service spanned almost 30 years, starting as an intern in North Las Vegas. Since her intern days, Bonnie served in many aspects of city government, including assistant city manager for Clark County, before accepting the position of Assistant City Manager for Henderson in 1999.

I have known Bonnie for many years and consider her a good friend. I have also treasured my relationship with her. Her intelligence and personality have made her an effective and strong leader for Henderson and Southern Nevada. Those who worked with Bonnie sometimes referred to her as “the little engine that could,” skipping from meeting to meeting without missing a beat. Bonnie’s life philosophy is that, with some determination and hard work, anything could be accomplished—a quality that will continue to take her far in life.

I wish Bonnie the best of luck in her retirement. It will be hard to imagine the City of Henderson without her.

HONORIZING CHRISTOPHER TATUM ON THE COMPLETION OF HIS INTERNSHIP

HON. BART GORDON
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to thank Christopher Tatum for his service during his internship this summer. Chris is a resident of Gallatin, Tennessee, and he has been a tremendous help to my constituents in Tennessee’s Sixth Congressional District.

Chris is returning home to prepare for his junior year at the University of Mississippi. As he finishes his experience in Washington, he is already looking towards the next adventure—studying in Italy during the fall semester.

Chris’s remarkable attitude and eagerness have served him well as he has experienced the many facets of Congress firsthand. He has been very helpful in answering constituent concerns, guiding visitors through the U.S. Capitol and assisting me and my staff with countless projects.

I hope Chris has enjoyed this learning experience as much as we have enjoyed having him in the office. I wish him all the best in his future endeavors.

THE STRUGGLES OF DAMU SMITH

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. RANGEL. Mr. Speaker, I rise to bring to the attention and consciousness of this body the important and significant battles of a courageous warrior for justice, peace, and equality, Mr. Damu Smith. Damu has been a constant and consistent champion of peace and continues his fight for love and justice despite his struggle with cancer. I applaud this simple man, this mighty activist, and this concerned citizen of the world for his tireless struggle to make the world a better place. I encourage him to continue his fight, knowing that others are aware of his struggle and continue to need his leadership.

A passionate believer in peace and global peace movements, Damu has fought to raise the awareness of the world community of the
ugliness of apartheid in South America, the brutality of government injustice and gun violence, the need for environmental awareness and justice, and the international fights against racism, injustice, and discrimination. He has advocated peace instead of nuclear arms. He has sought reconciliation rather than violence. He has battled intolerance in lieu of understanding.

A mere perusal of his life story would demonstrate to any of us that Damu has been a consistent champion of peace and justice wherever hatred and injustice reside. His humanity knows no limits and the sense of person responsibility is not bound by social expectations.

Damu, this champion of justice and peace, nonetheless is currently waging a battle with cancer. I wish him well in his persistent fight against the disease.

I hope the struggle of Damu Smith does not go unnoticed by my colleagues in this body. I hope we see the challenges and struggles that face our relentless pursuers of peace, justice, and equality. I hope we take steps to prevent Damu’s case from being repeated on future generations of Americans. While he is a true fighter to the core, Damu’s struggle has not been easy. Yet he continues to persist in his advocacy of peace and justice.

What is more disturbing about Damu’s case is that he may be both a model and environmental causes behind his disease: A family history and a location in “Cancer Alley”—a small section of Louisiana with a number of industrial plants and facilities and high rates of cancer, lung conditions, and skin irritations. It would seem that the Congress could do more to address whether there is a correlation between these incidence and the industrial population of the community.

I nonetheless praise the continued struggle of this fighter for justice and warrior for peace. I submit the following article written by Shantellia Y. Sherman of the Afro-American highlighting Damu’s struggle and his fight. I thank Ms. Sherman for bringing this to the Nation’s attention.

FAITH AND DELIVERANCE: DAMU SMITH WAGES WAR ON CANCER

Damu Smith, 61, bounces around rooms with the same quiet reverence often reserved for more popularly known figures: Nelson Mandela or Desmond Tutu. Sometimes, there’s a knowing smile or two. Smith is a kind of modern-day superstar among activists: fierce, passionate, courageous, God-fearing. His celebrity has reached far and beyond Washington, D.C., into the far corners of the Earth. Where there is any semblance of injustice, rest assured, Damu Smith is planning strategic countermoves.

Smith’s activism is a call to civic consciousness against apartheid in South Africa, gun violence, police brutality and government injustice. He worked to effect peace and a freeze on nuclear weapons, and advocated for environmental justice, both in America and abroad. In fact, Smith was in Palestine, heading up a delegation of protest against unfair treatment suffered by Palestinians at the hands of the Israeli government, when he collapsed, subsequently being diagnosed with colon cancer.

As a result, Smith has always appeared larger than life, particularly to this reporter, who met him more than 20 years ago as a pre-teen. Interviewing Smith became a challenge, as the reporting of his presence couldn’t overcome. I was nervous. I wasn’t sure what to expect, so I stood outside his apartment door for a solid five minutes, willing each knock to become just a little more audible to him on the other side. Finally, I entered at his behest, “Come on in, the door is open.”

Once I’d taken off my shoes and peered around the corner, I was able to get a full glance at Damu. His eyes were bright, his skin flawless, his expression other than ever. He bustled around his apartment with a small contingent of associates: his friend and doctor of more than 30 years, Jewel L. Crawford; a friend from front door. Lourdes, and others who came and went in fluid motions.

There is a handwritten note attached to a snapshot he has of him. It is a handwritten treasure decorating Damu’s home. Above a litany of daily affirmations, is written, “With God All Things Are Possible.”” All along, Damu Smith, he would smile brightening his face, and I made it a point of saying to me twice during our conversation, ‘Don’t hesitate about anything.’ That was Easter Sunday morning of the year I had to leave. After going through what he called “about 30 minutes of anguish and seeing my whole life race in front of me like a video,” Smith announced he was fighting it.

“Here I am. I’ve been alive three months since I was told, and I’m feeling great right now. Those tumors are shrinking. I’m sitting here with you now doing this interview and doing all of this organic juice, and I am drinking it as much as possible because it heals the liver. . . I’m taking chemotheraphy, acupuncture, healing, everything in the toolbox of healing. I’m picking up and using on my body right now. And I’m keeping God at the center of everything. So, I don’t plan to lose.”

Smith is only human, and is clear about what his body is going through. He says that he can see his clear understanding of his body’s day-to-day function and how to improve those functions while his body is under attack is essential. Even this though, he says, takes a back seat to faith.

“I’m also a very practical person. I understand that I have a very serious disease occupying my body, but I’m claiming victory! I’m expelling everything from my body by having faith in God and having faith in my family and the community of angels who have descended upon me and who surround me now,” he said.

Still, others wonder why Smith would make such a personal struggle public. The answer for Smith is an echoed sentiment understood by everyone who encounters him. He wouldn’t be Damu Smith if he wasn’t helping out the next man—even during his own fight.

“So many people hide what’s wrong with them and stuff, and he was open and went public with it so that he could possibly help someone else,” said Crawford. “Even facing a life-threatening situation, Damu is (still) organizing and trying to touch someone else’s life.”

When I was lying in the bed at Providence Hospital once I returned from Palestine in late March, I decided that I had to, one, walk in this journey and, two, that I had to organize people to help me and organize people to help others understand that they don’t want to go through with life without about to go through.

“There were literally hundreds of people who came to see me at Providence Hospital,
and some of my friends were getting upset, saying I needed my rest. But I knew what I was doing. God knew what I was doing. I needed to organize my friends and family first, and I knew that we’ve got to fight this, because it’s not just me. People have to go get checked, and we need to organize around this.

Out of those bedside meetings, Smith was able to establish the Spirit of Hope campaign, which seeks solutions to health disparities among minority and poor Americans. The campaign focuses on universal health care, education about the need for screening measures, addressing astronomical health care costs and promoting general well-being among minority and poor people.

“The whole spectrum of wellness is what the Spirit of Hope campaign is focusing on, and I wouldn’t have it any other way. It wouldn’t be me if I didn’t focus on something other than me,” said Smith.

Smith says that despite the cost and fear associated with the procedure, it is imperative that people of color and those living below the poverty line get regular checkups, including colonoscopies.

“What are you going to fear most? [If you] want to live, you cannot fear doing what you have to do to live. Colonoscopies are expensive. They’re between $700 to $900 dollars. And if you’re not insured, that’s a major problem. For Black people, and people of color and poor people, that’s a major problem.

“It’s very important we organize a campaign that insures that everyone has access to effective, holistic, comprehensive, prevention health care and access to treatment facilities so they get what they need when they need it,” he argued.

Smith is also thinking about access for his 12-year-old daughter Asha, who he lovingly refers to as “Asha Boo-Boo” and the “crown jewel of his life.” “I don’t want her to go through this. I want her and all of her little friends to get screened when the time is right. So, I have to work for them too,” said Smith.

As my time with Smith draws to a close, I begin to wonder if maybe he hadn’t been misdiagnosed. The wristband, which resembles a hospital clasp, is in fact a tag from the Emme Music Festival that he’s simply neglected to remove. Damu Smith is doing life Damu Smith style: happy, brilliant and winning the fight.

“This has been one of the happiest times in my life, in the midst of this crisis. Now some people might say, ‘How is that possible?’ It’s possible because I have seen the love come to me in such wonderful ways. I cannot begin to describe how profound, how rich and warm and beautiful love has been from my family and friends and God. I thank God for this moment and for the chance to fight,” said Smith.

IN HONOR OF MICKEY OWEN

HON. ROY BLUNT
of Missouri
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. BLUNT. Mr. Speaker, I rise today to honor the life of Mickey Owen, who distinguished himself in southwest Missouri by his 16 years of public service and his commitment to improving the lives of young people.

Mickey Owen began his Major League Baseball career in 1937 when he was drafted by the St. Louis Cardinals. Mickey Owen went on to play 13 seasons as a catcher with the Cardinals, Dodgers, Cubs and Red Sox and was named to the all-star team four times. After Mickey Owen retired from professional baseball in 1954, he started the Mickey Owen Baseball School in Miller, Missouri. Mickey Owen created an environment for young players, focused on improving their skills and enhancing their love of the game he loved. Owen promoted the idea that young players showed more improvement when relaxed and would excel if a non-threatening atmosphere was present. Mickey Owen Baseball School has instructed thousands of young players from around the world since its inception in 1959. Mickey Owen became the sheriff of Greene County, Missouri in 1965, where he honorably served for 16 years.

Mickey Owen’s contributions throughout his life and the impact he had on thousands of young lives will not be forgotten.

HONORING AMY TAYLOR ON THE COMPLETION OF HER INTERNSHIP

HON. BART GORDON
of Tennessee
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 25, 2005

Mr. GORDON. Mr. Speaker, I rise today to thank Amy Taylor for her service to Tennessee’s Sixth Congressional District while interning in my office. Both Amy and I are proud to call Murfreesboro, Tennessee, home.

Amy will soon begin her senior year at Middle Tennessee State University, where she is an English major. She is a member of the Kappa Delta sorority and a radio personality on the local jazz station.

Amy was a tremendous help and a wonderful addition to my office. She helped address constituent concerns, assisted me and my staff with numerous projects, and served as a friendly and informative tour guide of the U.S. Capitol, providing visitors from middle Tennessee with a personalized look at a national treasure.

I trust that Amy enjoyed her whirlwind internship and her first-hand examination of the workings of Congress. I know I enjoyed her fresh perspective and enthusiasm during her time here. I wish her all the best in the future.

HARLEM WEEK 2005: THE LEGACY CONTINUES

HON. CHARLES B. RANGEL
of New York
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 25, 2005

Mr. RANGEL. Mr. Speaker, I rise to commemorate the 31st anniversary of a series of festivities honoring the wonders of Harlem, my home community which I am privileged to represent in the Congress. Harlem Week 2005 is a cultural, educational, and entertaining series of activities designed to highlight the history, traditions, and future of the Harlem community that has grown from its modest beginnings to become a major attraction for the residents of the community and thousands of visitors annually.

A lifelong resident of Harlem, I have long been proud of the many facets of my community. From the music and arts of the Harlem community to the politics and strategies of Harlem’s activists and leaders, this is a community that is rich in diversity, entertainment, culture, and love. It is a community that embraces its differences and its commonalities in order to represent the rainbow of beauty and culture that characterizes our great city of New York.

Harlem Week is a celebration of this embrace. It is a time for the community and the families that make up that community to come together, to be exposed to their variety of traditions and customs, and to affirm their identities as well as their consciousness. This community will always, in my mind, represent the essence of America. And, during Harlem Week, we pay tribute to the soul of America.

Harlem Week is not simply a series of festivities and parties. It is an educational experience where individuals are taught to appreciate the arts and the history of the community. This summer, in theatrical performances, dance exhibitions, story-tellings, and other artistic expressions, the Harlem community will come alive in recognition of its rich and beautiful cultural attributes. The accomplishments and history of the African-American cinema will be highlighted alongside a celebration of Jazz and music that has originated in Harlem. Harlem will applaud the history of a diverse community that has struggled with the soul and legacy of generations of Americans.

Harlem Week is also a family event. Children of all ages will be entertained throughout this recognition of the wonder and cultural diversity of Harlem. Peeling zoos, story-tellers, and family shows will all work with an emphasis on achievement and education—will be displayed throughout the events of Harlem.

This year, attendees will also be exposed to the diverse sports and entertainment heritage of Harlem. The National Black Sports & Entertainment Hall of Fame will induct such entertainment luminaries as Phyllicia Rashad, Bonnie Raitt, Marian Anderson, Alvin Alley, Pearl Bailey, Ray Baretto, Donald Byrd, Kenny Gamble, Frankie Crocker, Symphony Sid, and Tito Rodriguez. Sports stars such as John Chaney, Fritz Pollard, Rafer Johnson, Lou Carneseca, Zina Garrison, Jack Johnson, Elston Howard, Johnny Sample, and Al Maguire will also be inducted in the Hall of Fame.

Harlem Week 2005 promises to be one of the best celebrations of the vitality of the Harlem community this year. It will be an important celebration of the soul of America and the community that has long nurtured that soul. This celebration, exposure, and education of the community will truly be instrumental in understanding and appreciating the beauty of the Harlem community.

As always, I welcome the Members of this Congress, as well as all citizens of these United States of America, to join me and the Harlem community during Harlem Week 2005. You will not regret your time in Harlem, for the RECORD the calendar of events for Harlem Week and I look forward to seeing you in Harlem.

HARLEM WEEK 2005: THE LEGACY CONTINUES
NEW YORK’S PREMIERE FESTIVAL CONTINUES TO CELEBRATE DECADES OF COMMUNITY SERVICE
June 28, 2005 (Harlem, USA)—Back by popular demand, HARLEM WEEK, which celebrates its 31st Anniversary, returns with a
specular line up of exciting events, outdoor activities, concerts, and fun for the entire family. Themed “The Legacy Continues”, the culturally-rich affair swung into gear on July 19, as Mayor Bloomberg and the city of New York paid tribute to HARLEM WEEK, with a special private celebration and concert at Gracie Mansion. The affair will include a special harmonious presentation from the hit musical, “Three Mo’ Tenors”, along with soulful, rhythmic selections from Ron Anderson, the Harlem Jazz & Music Festival All Stars.

On Sunday, July 31st, HARLEM WEEK salutes the 50th anniversary of Harlem during its “Great Day in Harlem” celebration at Ulysses S. Grant National Memorial Park, 122nd Street and Riverside Drive. This all-day, three-hour event will open with the “Family Unity Day Cultural Festival” at 1:00 p.m., featuring family-oriented outdoor activities including theatrical excerpts, dance performances, story-telling, spoken word, and more. The celebration continues with the Harlem Jazz & Music Festival’s fashion extravaganza, featuring the latest, cutting-edge creations and accessories from emerging and leading urban designers. Runway activities begin at 3:00 p.m. The festive day will end with a Salon Under the Stars. The Harlem Jazz & Music Festival and WBLFS FM invites the entire family to join them for this enchanting moonlit night of great music, great food, and great fun. The Harlem Jazz & Music Festival and WBLFS FM invites the entire family to join them for this enchanting moonlit night of great music, great food, and great fun.

HARLEM WEEK also hosts events focused on the arts and history of African-Americans in cinema, economic development and on the welfare of the Cures Can Be Found Act. This legislation promotes medical research by providing a tax credit for investments and donations to promote adult and umbilical cord blood stem cell research, the Cures Can Be Found Act will ensure greater resources are devoted to this valuable research. The tax credit for donations of umbilical cord blood will ensure that medical researchers have a continuous supply of stem cells. Thus, this bill will help scientists discover new cures using stem cells and, hopefully, make routine the use of stem cells to treat formally incurable diseases.

By encouraging private medical research, the Cures Can Be Found Act enhances a tradition of private medical research that is responsible for many medical breakthroughs. For example, Jonas Salk, discoverer of the polio vaccine, did not receive one dollar from the federal government for his efforts. I urge my colleagues to help the American people support the efforts of future Jonas Salks by cosponsoring the Cures Can Be Found Act.

On August 20th, the National Black Sports & Entertainment Hall of Fame Induction Gala will be held, honoring both live and posthumous luminaries in the fields of sports and entertainment. This year’s inductees in the area of entertainment include Donald Byrd, Iman, Kenny Gamble & Leon Huff; Phyllis Rasheed, Ray Baretto, Bonnie Raft, Frank Sinatra, Alvin Ailey, Pearl Bailey, SymphonySid, and Tito Rodriguez. In the area of sports, inductees include John Chaney, Fritz Poliard, Rafer Johnson, Lou足 Jackson, Jack Johnson, Elston Howard, Johnny Sample and Al Maguire. Vignette tribute for various inductees will air on WNBC-4 throughout the summer.

If HARLEM WEEK only accomplished giving people a sense of pride and enjoyment, that alone would be a worthy feat; however, HARLEM WEEK does that while also addressing other community needs. With the support of sponsors and elected officials, HARLEM WEEK has been proactive for advancing education by giving grants to educational organizations, plus scholarships to thousands of students who have worked diligently inside the classroom and outside in the community. The relationship between those parties and HARLEM WEEK has not only garnered higher enrollment, but also provided internships and careers for students. Scholarships and grants are presented at virtually every HARLEM WEEK, Harlem Jazz & Music Festival, and National Black Sports & Entertainment Hall of Fame event.

HARLEM WEEK also hosts events focused on economic development and on the welfare of Senior Citizens. Perhaps this is why mayors, governors, senators, members of congress, foreign leaders, and other inspirational figures, have opted to address HARLEM WEEK audiences over the years. The HARLEM WEEK’s 31st Anniversary is a great celebration of accomplishment through unity. Those unable to attend can still partake in the festivities by listening to live radio broadcasts on stations throughout the New York City area.

HARLEM WEEK invites you to come discover the treasures of a proud community. Discover Harlem’s culture and information about the excitement and culture that is HARLEM WEEK, log on to www.HarlemDiscover.com.
a conference-summit on the challenges and advances in the empowerment of our communities to change the daily lives of Americans.

With a broad and exemplary series of panels and discussion sessions, the Urban League will continue its legendary service in support of raising awareness of the limited job opportunities, changing health care costs, increasing economic and social disparities, and disappointing gaps in educational equality. The Urban League will not only highlight and question the challenges and limitations faced by communities across the county, but they will also propose and examine solutions for those communities.

For almost a century now, the Urban League has championed and advanced solutions to the crippling disparities that exist within our communities. They have long been involved with the struggle for equality and opportunity that faces the Black community, in particular, but economically disadvantaged groups nationwide.

In reaction to the Supreme Court’s 1896 Plessy v. Ferguson decision approving segrega-
tion in the United States, Black Americans were quickly relegated to the most menial jobs, the poorest conditions of housing and health care, and the least access to quality education. Individuals, as such as Mrs. Ruth Standish Brown and Dr. George Edmund Haynes, were the effort to adopt and promote Black Americans for their economic struggles in urban America. Their efforts led the Committee on Urban Conditions, the Committee for the Improvement of Industrial Conditions Among Negroes, and the National League for the Protection of Colored Women to form the National League on Urban Conditions Among Negroes, later shortened to the National Urban League.

Since that merger of groups and interests, the National Urban League has been at the forefront of fighting for equal opportunities and treatment of Americans in this country. They have pursued public and private strategies designed to provide training, assistance, development and awareness programs about the struggles for equal treatment and opportunity. Among Whites, Blacks, Hispanics, and Asians, the National Urban League has been a champion of the economic welfare of the disadvantaged.

Today, the League continues that legacy of championing for economic justice. They continue to provide useful information to policymakers in their evaluation and development of programs to aid the poor. They continue to inform the community of mechanisms to overcome the challenges that lay before them. They continue to be an advocate for the poor, an interpreter of the needs of the deprived, and a champion of justice and equality for the Nation, and they do all of this at the local community level through its chapters in communities around the Nation.

This week, led by its president, Marc Morial, who is providing superb leadership to the Urban League in the tradition of the great Whitney Young, the League continues its legacy and consciousness-building. I hope my colleagues will be reminded of the importance of this group to our economic development. As they conference in the Nation’s Capital, I hope we would provide them a voice for and an ear to their causes.

Mr. Speaker, I submit the following article written by Zenitha Prince of the Afro-American concerning this week’s meeting. I welcome the attendees and conferrees of this year’s conference to their Nation’s Capital, Washington, D.C.

The Urban League celebrates 95 years

July 23, 2005—Approximately 15,000 people are expected to join the National Urban League in “Celebrating 95 Years of Empowering Communities and Changing Lives” during its annual conference, which will convene at the Washington Convention Center in Washington, D.C., from July 27 to 31.

“I was a celebrant of 95 years of direct service to communities across the nation, we expect the annual conference in Washington, D.C., to be the largest gathering of the Urban League Movement,” said Marc H. Morial, National Urban League president and CEO, in a prepared statement.

The annual conference will feature innovative and interactive plenary sessions and events that present some of the Nation’s most illustrious and influential leaders. It also gives us a chance to discuss and find ways to help one another in closing the tremendous gaps that exist in health, education, and economic opportunity. The annual conference helps bring people together around issues of concern to our community and the Nation.

Among the speakers are U.S. Sen. Hillary Clinton (D-N.Y.); hiphop historian and author Kevin Powell; author, activist and comedian Dick Gregory; and Rainbow Coalition/PUSH founder and president the Rev. Jesse Jackson. The conference will also feature performances by India.Arie, Brian McKnight, Doug E. Fresh and Chuck Brown.

Most notably, however, the 2005 conference will feature the new Influencer Summit geared towards engaging, connecting and building young professionals. The list of speakers includes (The Apprentice) star Kwame Jackson, who plans to discuss how he parlayed his reality television experience into opportunities that include a new company, Legacy Holdings, which is even now brokering a $3.8 billion deal to build a real estate development called Rosewood, just miles outside of the District of Columbia, and a lucrative career on the international speakers’ circuit.

“I wouldn’t be on this phone or have any notoriety if I had stayed on my job [with Wall Street firm Goldman Sachs],” said the 30-year-old D.C. native. Modestly deflecting any praise about his achievements, Jackson advised young entrepreneurs that corporate America is a tough environment for a young Black person, and that taking tenacity and vision to attain success, “Being an entrepreneur is for people who enjoy getting their teeth kicked,” Jackson said. “You have to be the kind of person that will get up and ask for more.”

The Influencer Summit will also examine the changing civil rights landscape and the young Black professional’s role in it.

“I think we’re the up-and-coming leaders. Any civil rights movement from here on out will be carried out by us,” said Larry Meadows, Jr., president of the Washington National Urban League Young Professionals.

Both Jackson and Meadows agreed that the Black community is moving into the second generation of the civil rights struggle, which involves the fight for economic parity.

“We’ve grown by leaps and bounds, but if you look at it econometrically, we’ve not gone very far,” Meadows said. “We have a lot of successful individuals, and that creates the perception that we’re OK. But overall, we’re still struggling.”


PAUL KASTEN POST OFFICE BUILDING

HON. DENNIS R. REHBERG
OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. REHBERG. Mr. Speaker, I would like to thank the Government Reform Committee and this body for joining me in recognizing one of my constituents, Paul Kasten, an employee of the U.S. Postal Service for the past 57 years. Before his retirement this spring, at the age of 86, Paul Kasten had spent the last half-century serving eastern Montana. He began his postal career in 1947 riding a saddle horse to the farming community of Watkins.

In 1959, many of the rural routes consoli-
dated expanding Mr. Kasten’s route to 93 miles. Despite the immense distances, he would deliver regular mail to 30 families three times a week. His dedication and faithfulness earn him praise above which he will acknowledge. In addition to his mail deliveries, Paul would also deliver groceries, supplies, and anything that was needed by his rural customers. He was and is a valued and dedicated member of those communities.

Paul Kasten is a tribute to the entire U.S. Postal Service and I urge your support for his distinguished career. In honor of all his years of faithful service, I recognize Mr. Kasten’s achievements by designating the Brockway Post Office as the “Paul Kasten Post Office Building.” Thank you.

HONORING KASSI SCOTT ON THE COMPLETION OF HER INTERNSHIP

HON. BART GORDON
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. GORDON. Mr. Speaker, I rise today to recognize the many contributions Kassi Scott made while interning in my Washington, D.C., office. Kassi, a native of Moss, Tennessee, was a wonderful addition to the office and a great servant to the constituents of Tennessee’s Sixth Congressional District.

Kassi soon will begin her junior year at Ten-
sessee Tech University, where she is a political science major and president of the College Democrats.

Kassi has gained a wealth of congressional experience. She interned in my Cookeville, Tennessee, office prior to her internship in Washington. While in our Nation’s capital, she attended briefings, addressed constituent concerns and served as a valuable and informative tour guide of the U.S. Capitol.

I hope Kassi enjoyed her internship as much as my staff and I have enjoyed her presence in the office. I wish her all the best in the future.
HONORING THE MEMORY OF

HON. L. DICK OWEN, JR.

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. BONNER. Mr. Speaker, Baldwin County, Alabama, and indeed the entire First Congressional District recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Senator L. Dick Owen, Jr., was a devoted family man and dedicated public servant throughout his entire life. A native of Bay Minette, Alabama, he was a 1941 graduate of the University of Alabama in Tuscaloosa. Governor George Wallace appointed him to the position of Baldwin County Probate Judge in January 1964 following the death of his predeces sor, Judge Ramsey Stuart. One year later, he was elected to the Alabama House of Representatives, where he served two terms before running for and winning two terms in the Alabama Senate. His work in the state legislature was met with wide praise, and he was honored by the Alabama Wildlife Federation as “Legislative Conservationist of the Year,” and, in 1976, by the Alabama Press Association as “Most Effective Senator.”

Sen. Owen was also actively involved in his community and was a charter member of the Bay Minette Rotary Club. He was also honored in 1982 when the performing arts center of Faulkner State Community College—an institution which he helped locate in Bay Minette—was named the “L.D. Owen Performing Arts Center.” His devotion to his fellow man was unmatched, and I do not think there will ever be a full accounting of the many people he helped over the course of his lifetime.

Senator Owen was also a proud veteran of the United States Army and served with distinction as a member of the famed 82nd Airborne Division during World War II, where he earned six Bronze Stars. During the Korean War, he returned to active duty, and in 1963 retired from the Army Reserve with the rank of lieutenant colonel.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for Baldwin County, Alabama. Senator Owen will be deeply missed by his family—his wife, Annie Ruth Heidelberg Owen; his son, L.D. Owen, III; his brother, James R. Owen; his sister, Nell Owen Davis; his three grandchildren; and his two great-grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

GAZA: TEST CASE FOR PEACE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 26, 2005

Mr. FRANK of Massachusetts. Mr. Speaker, last week I opposed an amendment to the State Department Authorization Bill that would have put restrictions on the ability of the President to decide on the appropriate flow of aid to the Palestinian Authority, because I believe that a Palestinian Authority both willing and able to confront violent opposition to the peace process with Israel is essential for peace to succeed. Later that day, after our debate, I read—a bit tardily—an excellent article that had been published in the Washington Post, for Wednesday, July 20, by the Israeli Ambassador to the United States, Daniel Ayalon. Ambassador Ayalon is an extremely able diplomat, who is himself a dedicated supporter of a rational process leading to a genuine two state solution in the Middle East. The article he wrote underlines the importance of a commitment by the Palestinian Authority to deal with all those who are seeking to derail the peace process, to bring to justice those responsible for the terrorist murders of Israelis within Gaza while the negotiations continue, and to bring to an end the violence that is now being shown in willfulness to confront this opposition. It is entirely reasonable for Israel to ask, as Ambassador Ayalon does, for a comparable level of effort from President Abbas of the Palestinian Authority.

I do not mean by this to equate the opposition faced by President Abbas on the one hand and Prime Minister Sharon on the other. While I disagree strongly with those settlers who are seeking to derail the peace process, they have not in any significant degree resorted to the kind of murderous violence that has been shown by Hamas and others within the Palestinian community seeking to put an end to peace. I say that they are people seeking to put an end to the peace process, Mr. Speaker, because there is no other explanation for the decision to engage in terrorist murders of Israelis within Gaza while the Israeli Government is in fact in the process of withdrawing from Gaza. Individual Israelis are not the only victims of these murders—the peace process is also an intended victim.

I believe it is important for the United States to provide strong support for all those trying to go forward with the difficult peace process, and I think it is fair for Ambassador Ayalon to point out that the effort so far of President Abbas has fallen short of what Israel has a right to expect.

I will continue to oppose, as I did last week, measures that seem to me to underscore President Abbas’ ability to go forward with this admirably difficult task. At the same time, I think it is important for those of us who are strong supporters of the peace process to join in reminding President Abbas of the importance of his being more successful than he has in the past in this regard.

Mr. Speaker, I ask that Daniel Ayalon’s article be printed here.

[From the Washington Post, July 20, 2005]

IN GAZA, A TEST CASE FOR PEACE

(By Daniel Ayalon)

Next month thousands of Israelis will be uprooted from the Gaza Strip settlements against the backdrop of widespread political opposition and intensifying Palestinian terrorism. Israel faces difficult days ahead, and Prime Minister Ariel Sharon is boldly determined to move forward with disengagement from Gaza and the northern West Bank out of a deep conviction that it is critical to Israel’s future. Unfortunately, the Palestinian leadership has failed to meet him halfway. The Palestinian Authority’s refusal to disarm terrorist organizations has enabled the terrorists to regroup and renew deadly attacks against Israelis, compounding the difficulties of this engagement and casting a ominous shadow on the possibility of future progress.

The sharp increase in Palestinian terrorist attacks, particularly in the past week, underscores the precariousness of the situation. While Israel is committed to completing the disengagement as planned, we will not sit idly while our civilians are under attack. Time is running out for the Palestinian leadership to confront the terrorists. Should it fail to do so, Israel will be forced to take the necessary steps to defend its people. As the Palestinians miss another historic opportunity, the world should insist that they crack down on terrorism now.

After numerous failed attempts by Israelis and Palestinians to reach peaceful accommodation over the past 15 years, Sharon decided to embark on a different course. Disengagement, as he explained in an immense speech last week, is itself an immense project and indeed historical undertaking, aimed at reducing friction between Israelis and Palestinians, jump-starting the peace process and providing the Palestinian Authority with a unique opportunity to build institutions of responsible self-government.

In the same time, it puts a terrible burden on thousands of Israelis called on to leave their homes against their will. Many have lived there for more than three generations. Specially trained, unarmed units will move from house to house as part of a massive logistical operation involving some 50,000 security personnel, accompanied by teams of social workers and psychologists. Living, breathing communities, some more than 30 years old, will simply vanish. Businesses, factories and farms will be shut down. Schools, synagogues and cemeteries will be relocated. The removal of graves, including those of terrorism victims, will be especially heart-wrenching.

The trauma of disengagement has unleashed dangerous rifts in Israeli society. While the withdrawal is supported by most of the public, many Israelis deeply oppose it on moral, religious and emotional grounds. Sharon has demonstrated steadfast leadership in the face of an unprecedented political backlash from his traditional supporters. Given the intense, and growing civil disobedience, the prospect of virtual resistance cannot be ruled out. Regardless of the outcome, the repercussions of disengagement will be felt in Israel for years. At stake is not only the success of disengagement but also the very fabric of Israeli society.

Adding fuel to the fire, public anxiety in Israel has increased because of the resurgence of Palestinian terrorism, including suicide bombings, drive-by shootings and rocket attacks. Rather than confront the terrorist organizations and disarm them, Palestinian President Mahmoud Abbas has invited Hamas into his government, thereby providing a terrorist organization with an official seal of approval. The result has been an emboldened Hamas, a further weakening of the Palestinian Authority, and a potentially disastrous perception that disengagement is a victory for terrorism rather than an opportunity for peace.

Israel must seize the moment and lead the Palestinians toward peace. The terrorist organizations must be disarmed as called for in the “road map,” if Palestinian statehood is to become a reality. This is both the opportunity and the test for the Palestinian leadership. Will that leadership
Ed Hughes was a candidate for President of the City Council in Wilmington, Delaware and chaired the Republican City Committee. He was a frequent lecturer on current events and world affairs at Crosslands in Kennett Square, Pennsylvania and was a longtime manager of the Hagley Museum on the Brandywine River. He was a devoted husband, a proud father of five, a golfer, and in later life, a painter. He loved crossword puzzles, his golfing buddies and a good steak.

Ed Hughes is survived by his wife of 54 years, Jody Hughes, his daughters Mary and K.C. Halperm, his sons Paul, John and Mark, as well as seven grandchildren.

Mr. Speaker, I had the pleasure of knowing Ed Hughes. He was a gentle man with a superb intellect and a wonderful wit. He was a man who was comfortable with his life and achievements, most of all his magnificent children and theirs. Ed Hughes loved his family, his community and his country. I ask my colleagues to join me in honoring the life and works of this good man and in extending to his wife and entire family our most sincere sympathy.

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

SPEECH OF HON. BRIAN HIGGINS OF NEW YORK IN THE HOUSE OF REPRESENTATIVES Thursday, July 21, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

Mr. HIGGINS. Mr. Chairman, in the wake of the terrorist attacks of September 11, 2001, the United States Congress passed the USA PATRIOT Act with broad bipartisan support to better equip law enforcement and intelligence agencies in their struggle to combat terrorism. As the shock of those horrible events subsided, many from both political parties began to question some of the more invasive aspects of the Patriot Act, including a number of provisions that allow Federal investigators to enter homes, tap phone lines, and search library records without a warrant.

Since then, the Patriot Act has become a much-debated issue, symbolizing a Federal Government abusing its power and violating civil liberties for some, and a necessary bulwark against the barbarity of terrorists for others. And yet, all agree that the United States faces a daunting challenge in combating terrorism, both abroad and at home, through continuing efforts to safeguard borders, protect airports, and monitor centers of trade and commerce. In order to overcome these challenges, we must remain vigilant in our fight against terrorism and continue to strengthen our resolve even in the face of degraded and desperate acts such as the bombings that terrorized London this past week and a few short weeks ago.

The events in London provide a somber and revealing backdrop for the current debate regarding the renewal of a number of provisions contained in the USA PATRIOT Act. Many of my colleagues have voiced well-reasoned and thoughtful objections to the current bill, the USA Patriot and Terrorism Prevention Reauthorization Act of 2005, H.R. 3199, which would make permanent 14 of the 16 provisions of the USA PATRIOT Act. I share the concerns of my colleagues who fear that the proposed legislation will endanger the civil liberties of our citizens and create the potential for abuse of Federal powers. Additionally, I am disturbed by the administration’s lack of cooperation in providing detailed information regarding the effectiveness of the increased enforcement power contained in the Patriot Act. The members of the 9/11 Commission specifically directed the Bush administration to explain how the expanded powers of the Patriot Act “materially” enhance U.S. security. They also directed the administration to make certain that proper supervision was in place to monitor these enhanced powers. The administration has ignored these recommendations and showed a repeated willingness to place the acquisition of increased power above the common interest of individual citizens.

But as we deliberate over this bill, it is important to consider the ongoing fight against terrorism, so violently displayed in the terrorist bombings in London this past week. These attacks are a reminder that we remain susceptible to terrorism and must protect ourselves from continuing threats. While I have deep concerns regarding the effect of certain provisions of the Patriot Act on the civil rights of Americans, I strongly believe that we must end this legislation but amend it. “Mend, don’t end” should have been the guiding theme in redrafting and analyzing the Patriot Act.

We cannot let our partisan differences obscure our common fight against terrorism. We cannot let our very real concerns about the violation of civil liberties overwhelm our oath to protect the citizens of the United States from further terrorist activity. While I would have preferred a “mend don’t end” strategy to reshaping the Patriot Act, the leadership chose a different tactic and brought the bill to the floor with the most disconcerting provisions included. In light of recent events, and our continued war on terrorism, I chose to stand on the side of law enforcement and the intelligence community and protect our country by voting for the Patriot Act reauthorization.

PERSONAL EXPLANATION

HON. JOHN LINDBERG OF GEORGIA IN THE HOUSE OF REPRESENTATIVES Tuesday, July 26, 2005

Mr. LINDBERG. Mr. Speaker, I was unable to cast rollcall votes 415 and 416 on July 22, 2005, because I was unavoidably detained on official business with President George W. Bush in Atlanta, Georgia, at a roundtable discussion on retirement security for future generations of Americans. I was also unable to cast rollcall votes 417, 418, and 419 on July 25, 2005, as I was traveling on official legislative/policy business. Had I been present I would have cast the following votes: On rollcall No. 415, I would have voted “no” on rollcall No. 416, I would have voted “yes”; on rollcall No. 417, I would have voted “yes”; on rollcall No. 418, I would have voted “yes”; and on rollcall No. 419, I would have voted “yes.”
Subcommittee as well as Chairman LEWIS of the full Committee for their hard work and dedication to our Nation’s service members and veterans. Working with the House Committee on Veterans’ Affairs, the conference report accompanying H.R. 2361, the fiscal year 2006 appropriations act for the Department of Interior and Related Agencies, included an additional $1.5 billion allocated to the Veterans Health Administration. These funds are especially critical for VA to treat new veterans, those returning from Operation Enduring Freedom and Operation Iraqi Freedom veterans.

Year after year, the annual budget for the Veterans Health Administration is the subject of great debate. On February 16, 2005, VA Secretary Nicholson and other VA officials stood before the VA Committee and justified the Administration’s budget request. Subsequently, we learned that all the hard work and tough choices Congress has made to increase VA health care funding—by no less than 42 percent in just the last four years—has now been overshadowed by a “discovery” of inadequate funding. Since then, the VA Committee has held three separate hearings over the past month and a half to understand and examine VA’s methodologies for forecasting health care costs and utilization projections, to identify the breakdown in the budget process, and to bring to light the serious flaws in VA’s usage assumptions.

Equally important, the conference report demands new levels of accountability inside VA. In fact, the VA Committee is seeking to institutionalize accountability in the budget process at VA to ensure that similar circumstances can be averted in the future. There is but one constant we can all agree upon: the VA must ensure a continuity of care for our severely disabled veterans.

While $1.5 billion seems to be the right figure at this point in time, there are only two months left in the fiscal year. This means that the Department of Veterans Affairs has the ability to roll over into fiscal year 2006 whatever sums remain unspent in fiscal year 2005; I expect department officials to spend wisely. With this particular provision, we are not only seeking to meet the urgent needs for the remainder of this year, but are providing a significant down payment on the shortfall we anticipate in fiscal year 2006.

Mr. Speaker, again, I applaud the work of Chairman LEWIS and Chairman TAYLOR of the Appropriations Committee, as well as the leadership of the House and Senate Veterans’ Affairs Committees.

INTRODUCTION OF THE TEACHER TRAINING EXPANSION ACT OF 2005

HON. ELIJAH E. CUMMINGS
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. CUMMINGS. Mr. Speaker, currently, too many of our nation’s “special needs” children are underserved due to inadequate training of general education teachers. It was recently reported that approximately 80 percent of students with learning disabilities receive the majority of their instruction in special education classrooms. According to the U.S. Department of Education, 50 percent of disabled students between the ages of 6 and 11, and 30 percent of disabled students between the ages of 11 and 12, are taught in regular classrooms.

These figures reflect the mandate under the Individuals with Disabilities Education Act (IDEA) that requires, to the maximum extent appropriate, children with disabilities . . . are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (IDEA 612[a][B][A]).

As more children with disabilities enter general education classrooms, it is critical that general education teachers and personnel are adequately trained to adapt curricula to suit their needs. Regular education teachers and personnel must be equipped to collaborate with special education teachers to ensure that the best individualized approaches are utilized for the successful integration of disabled students into the classroom.

For these reasons, I am reintroducing the Teacher Training Expansion Act of 2005, legislation that would address this crucial area of teacher development. Specifically, this legislation would authorize the Secretary of Education to give preference, in the distribution of certain grants under IDEA, to local educational agencies and nonprofit organizations that provide training to regular education personnel to meet the needs of children with disabilities.

Under current law, institutions of higher education are already granted such a preferential status in the distribution of these grants. However, I firmly believe local educational agencies and public or private nonprofit organizations that are at the forefront of training teachers who work with disabled students, must be eligible to receive equal consideration in providing this vital type of professional development and training.

Mr. Speaker, by supporting this legislation we will help our teachers gain the skills they need to work effectively with disabled students in general education classrooms and help make good on our promise to provide a quality education to all students.

Lastly, as we celebrate the 15th Anniversary of the Americans with Disabilities Act today, let us be ever mindful to continue to level the playing field for our disabled and special needs communities in any way that we can. This bill would help in furthering this goal and I urge my colleagues to cosponsor the Teacher Training Expansion Act of 2005.
working-age people with a disability are employed. Today, people with disabilities are three times more likely than those without disabilities to live in poverty. There is much progress still to be made.

Unfortunately, in recent years the federal courts have narrowly interpreted the ADA and have misunderstood the provision of the Act, especially in regards to the workplace and the applicability of ADA to state law. Moreover, the Administration has proposed funding cuts to key programs—Section 8 housing, Medicaid, and vocational rehabilitation and assistive technology—which enable many people with disabilities to achieve self-sufficiency and live independently.

On this anniversary of the American with Disabilities Act, we must make sure that we fulfill the promise made to our disabled brothers and sisters fifteen years ago. Indeed, the goals of the ADA could not be more pertinent than they are today, when thousands of soldiers are returning home from Iraq and Afghanistan with severe injuries. It is my hope that we can move forward today to fully realize the goals of equality and integration set forth in the Americans with Disabilities Act.

IN HONOR OF THE REVEREND VASILJIE BUDIMIR SOKOLOVIC AND THE LEGACY OF HIS FATHER, SAINT BUDIMIR SOKOLOVIC

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the Reverend Vasilije Budimir Sokolovic, the legacy of his father, Priest martyr Saint Budimir Sokolovic of Dobrun, recently canonized by the Serbian Orthodox Church, who was executed by communist oppressors for his religious beliefs.

Tyranny and violence took the life of Saint Budimir Sokolovic, yet his legacy of strength, spirit, faith and ministry to others continues to live on in the life and works of his son, Reverend Vasilije Sokolovic. Reverend Sokolovic was just a young boy when his father was jailed and executed, shortly after the end of WWII. Saint Sokolovic’s vocation directed him to the Seminary, becoming the 42nd generation of Sokolovics to dedicate their lives to the priesthood.

Mr. Speaker and Colleagues, please join me in honor and tribute of Reverend Vasilije Budimir Sokolovic, whose ministry and leadership continue to provide faith and support to countless individuals and families of the St. Sava Serbian Orthodox Church, and serves as an instrument of spiritual connection to the life and work of his father, Priest martyr Saint Budimir Sokolovic of Dobrun. With courage and steadfast conviction in his faith, Saint Budimir Sokolovic paid the ultimate sacrifice in his quest for religious freedom.

Reverend Vasilije Sokolovic continues to carry the faithful torch of his father—a blazing legacy of freedom from tyranny, a burning reminder of the fragility of democracy, and a light of hope and inspiration for people around the world searching for the light of liberty.

COMMEMORATING THE FIFTEENTH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. ELIJAH E. CUMMINGS
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. CUMMINGS. Mr. Speaker, fifteen years ago today, our Nation enacted the Americans with Disabilities Act, giving civil rights protections to individuals with disabilities. This landmark legislation can be described as nothing less than monumental and groundbreaking for those with disabilities as it brought this community into the mainstream folds of our Nation.

The ADA has brought about many changes in workplaces, transportation, schools, public buildings, parks and telephone services. Closed captioning, sidewalk curb cutouts, accessible entrances and restrooms, equal employment opportunities—all are a direct result, making the ADA one of the most far-reaching pieces of legislation ever enacted by our Nation. Perhaps more important than removing physical barriers, the ADA has been successful in changing the way society views our members with disabilities. Society understands and now demonstrates that people with disabilities could, and should, fully participate in all aspects of life.

Mr. Speaker, despite the progress achieved through the ADA, there is still a long way to go before we truly achieve “full participation” for people with disabilities. In 1985, the widely regarded Harris poll determined that two-thirds of working age Americans with disabilities are unemployed, the highest unemployment rate by far of any group, and much of the impetus for enacting the ADA. The U.S. Census Bureau shows that little has changed in the last 20 years. Today, only 42% of working-age men, and 34% of working-age women, with disabilities are employed.

The ADA levels the playing field, but it cannot ensure that an individual with a disability is actually able to apply for that job, or to that university. As technological advances continue to close physical gaps for people with disabilities in and out of the workplace, let us also be mindful to provide the tools needed to cross the mental gaps they may face.

Confidence and recognition of self-worth are absolutely necessary to taking those big steps toward employment, or education. To promote this, we need legislation like the Medicaid Community-Based Attendant Services and Supports Act, H.R. 910, a bill introduced by my colleague Rep. Danny Davis and which I have cosponsored. This bill would provide individuals with disabilities equal access to community-based attendant services and supports, taking many out of institutional care and placing them back into the homes, families and communities where they belong. In supportive and familiar environments, people with disabilities will be better prepared to take advantage of education and employment opportunities.

We must continue to educate the public, and inspire employers to hire qualified employees with disabilities. We must fight to broaden, not narrow, the scope of the ADA as we continually redefine the meaning of “disability.” America has become more accessible to people with disabilities. This fact rightfully deserves a celebration today. However, Congress must continue to level the playing field and continue the promise to push for full, unrestricted access and participation for our disabled communities.

INTRODUCTION OF BILL DEALING WITH CLAIMS FOR RIGHTS-OF-WAY UNDER R.S. 2477

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. UDALL of Colorado. Mr. Speaker, I am today again introducing a bill to establish a process for orderly resolution of a problem that affects private property owners and the sound management of the Federal lands.

What is involved are claims for rights-of-way under a provision of the Mining Law of 1866 that has been codified in section 2477 of the Revised Statutes, and is usually called R.S. 2477. It granted rights-of-way for the construction of highways across Federal lands not reserved for public uses. It was one of many 19th-century laws that assisted in the opening of the West for resource development and settlement.

More than a century after its enactment, R.S. 2477 was repealed by the Federal Land Policy and Management Act of 1976, often called “FLPMA,” and was replaced with a modern and comprehensive process for establishing rights-of-way on Federal lands. However, FLPMA did not revoke valid existing rights established under R.S. 2477—and, unfortunately, it also did not set a deadline for people claiming to have such rights to file their claims.

As a result, there is literally no way of knowing how many such claims might be filed or what lands might be affected—including not just Federal lands but also lands that once were Federal but now belong to other owners. But it is clear that R.S. 2477 claims could involve not only thousands of square miles of Federal lands but also many lands that now are private property or belong to the states or other entities.

This is obviously a serious problem. It also is the way things used to be with regard to another kind of claim on Federal lands—mining claims under the Mining Law of 1872. However, that problem was resolved by section 314 of FLPMA, which gave people 3 years to record those claims and provided that any
claim not recorded by the deadline would be deemed to have been abandoned. The courts have upheld that approach, and I think it should have been applied to R.S. 2477 claims as well. If it had been, R.S. 2477 would be a subject for historians, not a headache for our land managers or the nightmare for private property owners and American people—the owners of the Federal lands. A claimant may file a claim at any time, but after the deadline has expired, the claimant is informed that he or she has lost the right to file a claim.

The bill also spells out what information a claimant is to provide, how claims are to be considered administratively, and the rules for judicial review of administrative decisions about claims. Recognizing the potential threats to private or other non-Federal landowners from R.S. 2477 claims, the bill spells out that claims involving their lands will be considered to have been abandoned when the lands were transferred out of federal ownership unless the claimant can establish by clear and convincing evidence that at the time of transfer there was a well-established right-of-way whose use for highway purposes was intended to be allowed to continue. And it applies a similar standard to claims involving lands used for national defense purposes unless the claimant can establish that the claimed route constitutes a highway; 9) a statement regarding the availability of materials not related to the claim; and 10) evidence that the claimed right-of-way traversed public land not reserved for other use at the time of construction of the highway.

Subsection (d) provides that a claimant who fails to submit all the required evidence in support of the claim will have an additional 30 days to submit evidence in support of the claim. Subsection (e) requires publication and other steps to inform the public.

Subsection (f) provides that if no portion of a claim involves former Federal lands, conservation lands, defense lands, or tribal lands, the authorized officer is to determine whether the claim is presumptively valid, and if the claimant has met the burden of proof specified in subsection (b), then the claim is deemed to be a valid claim and cannot be determined invalid.

Subsection (g) provides that if the authorized officer determines a claim is presumptively valid, it shall be considered presumptively valid. The authorized officer may require supplemental evidence to respond to such an objection. Subsection (h) provides that if the authorized officer determines a claim is not presumptively valid, it shall be considered invalid. Subsection (i) provides that if the authorized officer determines a claim is presumptively valid, it shall be considered valid. Subsection (j) provides that if the authorized officer determines a claim is not presumptively valid, it shall be considered invalid.

Subsection (k) specifies the procedures the Secretary of the Interior shall follow when reviewing a claim.

Section 5 addresses review of claims and determinations regarding them.
establishes a statute of limitation for initiation of such review.

Section 6 includes a variety of administrative provisions:

Subsection (a) prohibits charging a fee for a filing of a claim by a State, County, or local government.

Subsection (b) sets priorities for reviewing and processing claims: 1) claims filed by a State, County, or local government; 2) claims filed by non-governmental parties and involving private or other non-federal lands, conservation lands, defense lands, or tribal lands; and 3) other claims.

Subsection (c) requires that to the extent practicable, review of claims will be completed within a year after submission of evidence and requires periodic status reports on claims under review.

Subsection (d) provides that—1) authorized officers reviewing claims are to seek and consider the views of affected States, counties, local governments, tribes, Federal agencies, and the public; 2) authorized officers reviewing claims are responsible for coordinating with appropriate Federal agencies; 3) authorizing officers reviewing claims involving lands also seek the views of the local and consult with any affected Native Corporation.

Subsection (e) authorizes retention by the United States with respect to claims involving conservation, defense, or tribal lands or the owner of record with respect to claims involving other lands of exclusive possession or control of lands affected by claims upheld upon judicial review to be valid. The subsection specifies the United States or the owner of record shall seek to reach agreement with the claimant before exercising the authority to retain possession or control.

Subsection (f) requires filling of surveys of R.S. 2477 highway rights-of-way determined to be valid by the Department of Commerce and also serves to strengthen the fabric of Government reflects a continuum of law enforcement excellence.

In 1978, following his exemplary service to our country, Mr. Hawk began his service with the FBI as a Special Agent. His assignments included working out of the FBI’s Cleveland and Detroit offices. For the next decade, Mr. Hawk served in the infantry with the U.S. Army’s Cavalry Division in the capacity of Team Leader in charge of a Reconnaissance Team.

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HON. LUIS V. GUTIERREZ 
OF ILLINOIS 
IN THE HOUSE OF REPRESENTATIVES 
Tuesday, July 26, 2005

Mr. GUTIERREZ. Mr. Speaker, I am pleased to introduce legislation today that continues the long fight to maintain state consumer protections for customers of national banks. In January 2004, the Office of the Comptroller of the Currency, the primary regulator of national banks, introduced regulations to preempt the application of state laws and the authority of state officials over their regulated entities. Since that time, other banking regulators have joined this race to the bottom. My legislation will provide much-needed clarification in this area.

Last year, USA Today, the nation’s newspaper, condemned the OCC’s preemption rules in an editorial, claiming that they threaten “strong consumer protection laws that have been the responsibility of states for more than a century.” The newspaper said the OCC’s rules will make “millions of consumers vulnerable” to illegal loan practices. The OCC’s Chief Counsel irreverently characterized these concerns as “baloney.”

Over the last year, we have worked together as a broad bipartisan coalition who sees state consumer protection as a bread and butter issue, rather than “baloney.”

This legislation is merely the latest step to ensure that our states have the power to protect consumers.

And to stop the OCC from eroding strong safeguards that have been used by the states for more than a century to enforce consumer protection laws.

The preemption rules were a misguided, unprecedented, unchecked expansion of its authority, especially since the states, rather than the OCC, currently have the tools and resources to effectively enforce consumer protection and other important laws. This agency has reinterpreted that it is far more concerned with curttying favor among the banks it regulates instead of fulfilling its regulatory responsibilities under the law.

Last year, I passed an amendment to the Financial Services Committees Budget View expressing concern regarding the budgetary effects of the OCC’s preemption rules. The budget views put the Financial Services Committee on record that the OCC’s preemption rules represent an unprecedented expansion of authority, one that was instituted without Congressional authorization. Subsequently, I introduced legislation to reverse the preemption rules, and then, toward the end of last Congress, Mr. FRANK and I introduced a version of what we are again introducing today.

Our bill ensures that national banks will be bound by state consumer protection laws, including predatory mortgage lending statutes. It also prohibits banks from benefiting from part of a state law while refusing to comply with a consumer-friendly portion of the same law. For example, a bank in Ohio is currently using the state law mechanism for foreseeing properties, but failing to abide by another provision in the statute, which limits fees for consumers. This legislation also allows state attorneys general to enforce laws and bring suit against banks when appropriate. As a former City Council member, I believe that the accountability of local officials is crucial. Few consumers can sort through the alphabet soup of regulators and figure out whom to contact if they have a problem on their bank. But almost every consumer knows their attorney general is there to protect them, so we must ensure that they retain authority over banks.

I am pleased to have been joined on this legislation by Representatives FRANK, LEE and MCCARTHY as cosponsors and urge all of my colleagues to support this effort.

15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT: MUCH ACCOMPLISHED, BUT MORE PROGRESS NEEDED

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Ms. SCHAKOWSKY. Mr. Speaker, today I rise to celebrate the 15th anniversary of the Americans with Disabilities Act. When the ADA was passed in 1990 it promised “equality of opportunity, economic self-sufficiency, inclusion and independence” for people with disabilities. This landmark legislation—one of the most important civil rights bills of our generation—is designed to allow the disabled to lead productive and fulfilling lives in our society. The goal of the ADA is that no one should be isolated or denied the opportunity that is the American dream.

The motivating idea behind the ADA is the recognition that persons with disabilities deserve to enjoy true equality and independence, to be part of our Nation not isolated within it. The ADA says it is wrong that individuals cannot join their friends at a movie theater or restaurant or sports stadium simply because they are in a wheelchair. It is wrong that disabled individuals are not hired because employers do not believe they can do the job or make the accommodations. It is wrong that, because individuals must deal with a disability, they must also deal with the lack of accessibility to public buildings, transportation and services. That kind of discrimination goes against the fundamental principles of our Nation. It is those types of obstacles that the ADA has sought to eradicate. By integrating people with disabilities into the workforce and community, we have all benefited.

While there were many individuals who were instrumental in winning the passage of the ADA, I want to acknowledge and thank two leaders in the disability rights movement: Justin Dart and Marca Bristo. Justin Dart was an inspiration for all of us who care not just about disability rights but about human rights. Marca Bristo is the consummate friend. She continues to lead the effort to expand opportunities and respect for persons with disabilities. I have had the personal privilege of knowing and learning from them and, like so many others, have been profoundly influenced by them.

Marca Bristo was born in Chicago in 1930, contracted polio in 1946 and spent the rest of his life in a wheelchair. Although he died in 2002, his legacy lives on both through the work of Yoshiko Dart and the rest of his family. He was known for his grassroots activism, touring the Nation, rallying people to support disability rights. In 1981, Mr. Dart was appointed by President Reagan to be the vice-chair of the National Council on Disability. He was also on the Council’s National policy that called for national civil rights legislation to end the centuries-old discrimination against people with disabilities—what would eventually become the Americans with Disabilities Act of 1990. In 1988, he was appointed by President Bush to the Task Force on the Rights and Empowerment of Americans with Disabilities. Mr. Dart toured the Nation, touting the ADA as “the civil rights act of the future.” In 1990, Justin Dart received the first pen used by former President Bush at the signing ceremony for the Americans with Disabilities Act. For the next 10 years, Mr. Dart continued to work passionately to see that disabled persons were given the rights they deserve and to win “Justice for All.”

Marca Bristo is a nationally and internationally acclaimed leader in the disability rights movement. In 1977, Marca Bristo sustained a spinal injury in a car accident. Her new condition forced her to see life in a new way, and she has since been a passionate and tenacious advocate for disability rights. In 1980, she founded Access Living in Chicago, one of the nation’s first centers for independent living. Ms. Bristo served as the Presidentially-appointed chairwoman of the National Council on Disability from 1994 to 2002 and while heavily involved in the drafting of the ADA, she has been a tireless advocate for accommodations. As Chairwoman of the NCD, she released a report on the ADA 5 years ago which focused specifically on implementation problems and has persistently argued that rights must be enforced in order to be real. Marca Bristo continues to work hard for disability rights and to improve the lives of people in Chicago and around the Nation.

Our Nation has come a long way in the 15 years since passage of the Americans with Disabilities Act. We have changed, we have been challenged, and we have not achieved our goal. The ADA has done much to break down barriers for the disabled, but we must recognize that we have far more to do to end discrimination. For 15 years now, it has been illegal for employers to discriminate against job applicants because of their disabilities. Yet, 2 of every 3 disabled persons are unemployed. It is illegal for state and local governments to deny disabled persons access to public services such as mass transit. Yet, funding constraints still leave persons with disabilities without accessible and convenient transportation options. Public and commercial buildings must be constructed and, where possible, modified to accommodate disabled persons. Yet, homes are still being built that lock disabled persons into the workforce and community, we have all benefited.

For 15 years now, it has been illegal for employers to discriminate against job applicants because of their disabilities. Yet, 2 of every 3 disabled persons are unemployed. It is illegal for state and local governments to deny disabled persons access to public services such as mass transit. Yet, funding constraints still leave persons with disabilities without accessible and convenient transportation options. Public and commercial buildings must be constructed and, where possible, modified to accommodate disabled persons. Yet, homes are still being built that lock disabled persons out of their communities because of the lack of home- and community-based services. We need to build upon the initial success of the ADA to solve these problems. Yet, today we are defending against Social Security privatization schemes that would jeopardize benefits for 8 million people with disabilities and against Medicaid cuts that would jeopardize health and long-term care services.
The Americans with Disabilities Act has changed our society in these past 15 years. However, as with most civil rights issues, there is still so much more progress to be made. We must remember the vision of Justin Dart and the message of Marca Bristo. While we take time to celebrate today’s anniversary, we must never be content until the promise of the Americans with Disabilities Act becomes reality so that every person is guaranteed “equality of opportunity, economic self-sufficiency, inclusion and independence.”

A TRIBUTE TO DR. EDMOND F. RITTER

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. TOWNS. Mr. Speaker, I rise today in recognition of a distinguished academic surgeon, Edmond F. Ritter. It is an honor to represent Dr. Ritter in the House of Representatives and to pay tribute to this outstanding leader in American Medicine.

Dr. Ritter received his Medical degree from Washington University in St. Louis, where he completed General Surgical Training. Dr. Ritter then underwent Plastic and Reconstructive Surgical Training at the University of California San Francisco. After completing his training, he was appointed to the faculty at Duke University Medical Center. He was later named, “The Duke Distinguished Physician,” in recognition of his contributions to the institution and patient care.

Dr. Ritter is an influential member of the medical community. As a gifted surgeon with special expertise in reconstructive microsurgery, he is able to provide skilled, state-of-the-art care to patients with difficult problems. In particular, his results for patients with cancers of the head, breast, and neck are unsurpassed.

Dr. Ritter has had an integral role in the training and mentorship of over 30 young plastic and reconstructive surgeons. Many of these aspiring surgeons have assumed academic positions and have become leaders in their communities.

Currently, Dr. Ritter is an Associate Professor at the Medical College of Georgia. In addition to making multiple contributions to the surgical literature, he is leading an investigation of Tumor and Adult Stem cell interactions in order to advance our understanding of tumor biology. As a result, Mr. Speaker, I believe that it is incumbent upon this body to recognize the accomplishments of Dr. Edmond Ritter for sharing his talents and services to improve the medical, physical, and emotional well-being of those in need.

A TRIBUTE TO REAR ADMIRAL ANTHONY W. LENGERICH, UNITED STATES NAVY

HON. JERRY LEWIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. LEWIS of California. Mr. Speaker, I rise today to honor Rear Admiral Anthony W. Lengerich, United States Navy, who is retiring after more than 34 years of faithful service to our Nation. A native of Redlands, California, Rear Admiral Lengerich received his commission in 1971 through a Naval Reserve Officer Training Corps scholarship at the University of Colorado and has since served with great distinction both as a Surface Warfare Officer and an Engineering Duty Officer.

Rear Admiral Lengerich’s impressive career includes sea duty aboard USS GURKE (DD 783) and USS BADGER (FF 1071), and on the afloat staffs of Commander U.S. Seventh Fleet, Commander Destroyer Squadron Thirteen, Commander Carrier Group Two and Commander Cruiser Destroyer Group Twelve. During these tours, he qualified as a Surface Warfare Officer and was designated as “Qualified for Command at Sea.” He also served as Communications Operations Officer for the eastern Atlantic and Mediterranean on the staff of the Commander in Chief, U.S. Naval Forces Europe in London.

Following his selection as an Engineering Duty Officer in 1984, Rear Admiral Lengerich served as the Platform Integration Officer for the Joint Tactical Information Distribution System on the static ship Electronic Systems Engineering Command, Washington, DC. His next assignment included duties as Project Officer for the Command and Control Processor and Director of Force Systems Engineering within the Space and Naval Warfare Command (SPAWAR). He later served as the Division Director for Afloat Mission Planning Systems within the Command and Control Program Office on the staff of the Program Executive Office for Cruise Missile and Unmanned Aerial Vehicles. An exceptional leader, he has commanded the Naval Electronic Systems Engineering Center, Charleston, South Carolina, and “commissioned” the Naval Command, Control and Ocean Surveillance Center, In-Service Engineering, East Coast Division, also in Charleston. He subsequently commanded the Naval Command, Control and Ocean Surveillance Center, San Diego, California, with additional duty as Corporate Operations Officers and Corporate Information Officer SPAWAR.

In 1998, Rear Admiral Lengerich was nominated by the President and confirmed by the Senate for the rank of Rear Admiral (lower half). His initial flag assignments included Director, Navy Information Operations for SPAWAR, and now, on the staff of the Chief of Naval Operations as Director of Industrial Capability, Maintenance Policy and Acquisition Logistics, and as Deputy Director of the Fleet Readiness Division. He was nominated and confirmed for the two-star rank of Rear Admiral in 2001.

Rear Admiral Lengerich assumed his current duties as Vice Commander, Naval Sea Systems Command in August 2002, effectively meeting the spectrum of demanding challenges in the daily operation of a command comprising nearly 50,000 employees and a $20 billion annual budget. His efforts have been instrumental in creating the foundation for an integrated organization with a single corporate focus that specifically aligned to NAVSEA’s mission in support of the Chief of Naval Operations, Secretary of the Navy, and Secretary of Defense initiatives. His visionary leadership and practical day-to-day approach during a period of unprecedented institutional transformation, has substantially and materially guided the execution of extremely complex acquisition, fleet maintenance and modernization programs to fulfill the needs of the Fleet today and the Navy of tomorrow.

Rear Admiral Lengerich has been indispensable in bringing the leading edges of technical thinking and management skills together to meet myriad Navy needs. A champion of sound fiscal methods, Rear Admiral Lengerich chaired a command review of major acquisition programs to identify and address shortfalls, and provided recommendations to reduce testing and evaluation costs, which were incorporated in the Department’s investment process. Organizationally, he has fostered the improved communications and enhanced teamwork needed to produce desired “bottom line” results within the command and across the Navy. His vision led to the merger of the NAVSEA Warfare Centers into a single business, enabling proximity between the NAVSEA Warfare Centers and Divisions, and the designation of Product Area Directors to ensure each Warfare Center customer received the best and most efficient combination of talent, facilities, and cost. Notably, Rear Admiral Lengerich chaired the Systems Command and Integrated Address the range of issues vital to the delivery of effective war fighting systems, and, has also chaired the Functional Naval Capabilities—Total Ownership Cost Integrated Process Team for the past six years, and led efforts which have yielded over $3 billion a year in ship, aircraft and ground vehicle maintenance cost avoidance.

Rear Admiral Lengerich has devoted significant energies to the command’s civilian and military personnel. He has shaped the command’s “roll out strategy” for transition to the National Security Personnel System and he developed the metrics to guide the command’s forward-thinking Human Capital Strategy. Rear Admiral Lengerich’s Engineering Duty Officer (EDO) Community spearheaded efforts to pro-actively manage the community strategy in meeting Navy dynamic requirements. With the same focus on the future, he has been a personal mentor to nearly one-third of the entire Navy ED Community and has worked with the Naval Postgraduate School to create a new accredited Master of Science in Systems Engineering curriculum and to create an advisory board on course curriculum critical to NAVSEA and SPAWAR.

For the past two months, Rear Admiral Lengerich has served superbly as NAVSEA’s Acting Commander, answering the call of duty as he has done many times before. He is an individual of uncommon character and total professional whose presence will be sincerely missed but whose many contributions will certainly endure. I am proud, Mr. Speaker, to thank him for his honorable service to the United States Navy, to commend him for a job “well done,” and to wish him “fair winds and following seas” as he closes his distinguished military career.
ON THE 15TH ANNIVERSARY OF THE INDIVIDUALS WITH DISABILITIES

HON. KATHERINE HARRIS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Ms. HARRIS. Mr. Speaker, I rise today to commemorate the 15th anniversary of the Americans with Disabilities Act (ADA), which we observe this week. This landmark piece of legislation continues to make a daily difference in the lives of the American people—not only in the lives of those with disabilities, but in all of our lives.

The Americans with Disabilities Act laid the groundwork to direct our nation toward equal opportunity for all. Today, the National Council on Disability, working with its federal partners, keeps up the hard work of striving to meet the goals of ADA in the United States. Let us continue working toward the goals of this law to secure the voting rights of individuals with disabilities.

We have fought hard to live up to the promise of our founding and to honor the dignity of every individual, and to extend the rights, privileges and opportunities of that promise to all our citizens. The Americans with Disabilities Act was part of a long line of landmark achievements that have expanded freedom and opportunity for all in the United States. Let us continue working toward the goals of this law—to remove the obstacles that prevent persons with disabilities from enjoying the full rights that too many Americans take for granted.

TRIBUTE TO LANCE ARMSTRONG

HON. RANDY NEUGEBAUER
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. NEUGEBAUER. Mr. Speaker, Lance Armstrong won an unprecedented seventh Tour de France race over the weekend. His life is a triumph of inspiration and encouragement. He is a living testament to the willpower and determination that define the human spirit.

We are all inspired by Lance’s story. His courage and his accomplishments are a celebration of human potential. Let us honor his commitment to excellence and his dedication to the cause of health and fitness.

As emanating, from so deep within our very souls, this voice ... of this our chosen goal, of this our life’s Tour De Force of Life as shows!

While, riding along life’s roads, as there upon our paths we rode, embarking on this journey we call life ... as ever onward we go ... To win the race of life, we all must follow a code of office ... until, approaching our final nights, upon this earth we rose. For in the game of life, there is but one thing which is bright ... of which makes us all contenders. Just one difference between winning and losing ... for it’s “The Heart” from which all great things are so rendered!

While, traveling through life’s country sides, as over her mountain tops we climb, as along life’s rivers which we wind ... as by her we glide ... In this our most valued of quests, To Be The Best ... as before us so lies the answer so ... Of this great test, within our hearts inside ... Do we get up when we fall down? While, upon each pitch stage in this race called life ... do our hearts burn bright in our souls as found? For in this our greatest of quests, To Be The Best ... will we one day because of these our precious gifts, perhaps be so Heaven bound?

In Life ... to go for the Gold! To cheat death, to reach down inside of yourself ... as your soul stretch ... until, none is left, oh, so very bold! To be a true Champion, To be The Best, to rewrite the story and the records books while upon our life’s valiant quest ... as Lance so-Gold.

A True Great Champion ... among just mere men. A winner, a man of courage ... of passion ... of fury and heart ... from the start ... to the middle ... until, the very end. A man who knows but only one creed ... who knows no bounds ... to push the envelope as he is found ... as his quest for victory never so ends! A Real Fine Tour De Force of Life ... A Real Tour De France ... as is this Tour De Lance! A True Terminator, among his fellow athletes as a most historic creator ... as ever onward he’ll advance ... For there is no mountain too steep for him to climb, no cure too sharp for him to ride in time ... with but one thing on his mind, that Golden Chance!

With Heart and Soul ... Body and Mind ... and Legs and Armstrong! As this great American Hero, has shown to this our world, the why, with his character he so belongs.

For in Sir Lancelot, we see this Valiant Knight of Courage’s Quest ... reaching deep down into our souls, as with his tests ... his sweet life’s song! While, there looking into the very face of death! Pedaling uphill, how Lance achieved the ultimate victory of life while ‘cheating death’ ... in his most valiant of all quests ... But not to lull, but to move ever forward somehow with great courage now ... while, to this our world he’s shown his very best!

And, as Lance rides onward into history ... My child, I bid you to learn and see ... and glean from his life lessons, all about what’s within a heart you need!

What it takes to win the game, success, and to find hope and faith, about character and courage and dedication within great hearts within you to succeed.

In traveling down the road of life, For in Lance, we see A Great Fine Tour De Force of Life, to so carry with us in our hearts about God and Faith and Sacrifice! A true celebration of the Heart and Soul of Courage and Faith ... and it’s true fine worth in Gold, this his A Fine Tour De Force of Life!

INTRODUCTION OF A RESOLUTION CONDEMNING THE CUBAN REGIME’S MOST RECENT MEASURES OF EXTREME REPRESSION AGAINST MEMBERS OF CUBA’S PRO-DEMOCRACY MOVEMENT

HON. LINCOLN DIAZ-BALART
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to introduce a resolution condemning the Cuban dictatorship’s most recent measures of extreme repression against Cuba’s pro-democracy movement.

Following Castro’s condemnable, March 2003, crackdown against peaceful pro-democracy activists, the European Union correctly took measures against the Cuban regime. However, in January 2005, the European Union suspended these measures and resumed its policy of so-called “engagement” with the terrorist regime in Havana. This policy of appeasement includes inviting regime officials to diplomatic events and shamelessly disinviting Cuba’s brave pro-democracy activists. Unfortunately, on July 14, 2005, the Government of France invited the dictatorship’s Foreign Minister to the French Embassy in Havana for a Bastille Day celebration. And, the Government of France did not invite the heroic members of the democratic opposition to the same celebration.

To protest this cowardly policy, members of the pro-democracy opposition in Cuba sought, on July 22, to demonstrate in front of the French Embassy in a peaceful and orderly manner for the liberation of all Cuban political prisoners, and to denounce the current policy of the European Union.

In a viscous display of gangster-style repression, the Cuban regime imprisoned its repugnant state security apparatus to try to intimidate and harass the peaceful demonstrators. Members of the Assembly to Promote Civil Society in Cuba, who were planning a peaceful demonstration in front of the French Embassy in Havana on Friday, July 22, were the victims of hate acts (“acts of repudiation”), their homes were ransacked, and at least 20 of them were arrested. Among those arrested were the leaders of the Cuban opposition Martha Beatriz Roque, Félix Bonne Céspedes and Reinal Gómez Manzano. Mr. Gómez Manzano and other opposition members remain in prison as I speak.

This is one more example of the brutality of a dictatorship that does not allow freedom of
expression for Cubans, and instructs its thugs to assault the members of the peaceful opposition for the “crime” of seeking freedom, democracy and respect for human rights in Cuba. The world needs to respond in the strongest possible terms to this latest violation of the most elemental human rights in Cuba. This resolution condemns the latest violations of human rights by the Cuban regime, a regime of gangsters, by gangsters and for gangsters, led by a gangster in chief.

HONORING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

HON. EDDIE BERNICE JOHNSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise this evening not only to celebrate the 15th Anniversary of the Americans with Disabilities Act, known as the ADA, but also to acknowledge my unwavering support of the ADA and of people with disabilities.

This Act has created positive changes, large and small, for disabled people everywhere. The access ramps we see leading into buildings are examples. Water fountains and sinks are more accessible. Services for the sight- and the hearing-impaired are more common. Employment discrimination is decreasing. Another important development is that the Americans with Disabilities Act has mobilized the disabilities advocacy community. Since 1990, people with disabilities have grown into seasoned advocates. They have unified their voices and are being heard from the halls of Congress to the every city and town across America. Unity has added strength to their voice and confidence to their actions. And they are being heard, loud and clear. Every year, Congress has considered legislation affecting people with disabilities, whether it be concerning Social Security benefits, education, tax provisions, labor standards, or other issues. The Americans with Disabilities Act provided a comprehensive legislative starting point—but there is still so much more to be done.

Perhaps more than anything else, this legislation has given hope to disabled people here in Dallas and across this nation. The Americans with Disabilities Act affirmed that people with disabilities should have as many opportunities to succeed in life as any other citizen. Its message is one of equality. To the 14,589 disabled workers in Texas’ 30th District, and perhaps more than anything else, this legislation has given hope to disabled people here in Dallas and across this nation. The Americans with Disabilities Act affirmed that people with disabilities should have as many opportunities to succeed in life as any other citizen. Its message is one of equality. To the 14,589 disabled workers in Texas’ 30th District, and

HON. DONNA M. CHRISTENSEN
OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES

Mrs. CHRISTENSEN. Mr. Speaker, the United States Virgin Islands has lost one of its outstanding success stories as prominent lawyer and Judge Alphonso Christian passed away Saturday, July 23, 2005.

With the passing of this Native son we have lost a premiere trail blazer. This outstanding Virgin Islander, born in Frederiksted, St. Croix, made substantial contributions to the Territory and in particular to the island of St. Thomas, the place he sailed to as a young man to begin his career. St. Thomas became his home, and it is where he began a flourishing and illustrious career, raising his children to be another generation of a progressive Family that is especially renowned in St. Croix for its industriousness, hardwork and diligence.

Christian, 83, died of heart failure at St. Joseph L. Schneider Hospital on St. Thomas. A jurist, attorney, government administrator, teacher and community activist, Christian had arisen from humble beginnings on St. Croix. Christian was born on August 2, 1916 to Peter and Wilhelmina Christian in Frederiksted. He had a disciplined upbringing and strong will to succeed during his child hood set the tone for his achievements to come.

He graduated as the Valedictorian of the Commercial Class at St. Patrick’s and started as Clerk Typist at the Post Office at Anna’s Hope. He later came to St. Thomas where his speed and accuracy in this position paved the way for his becoming the Stenographer to Mr. Herbert Lockhart of the A.H. Lockhart & Co., a company that was the hub of all commercial activity on St. Thomas. He worked his way from stenographer to reporter, and served as secretary of the Virgin Islands Municipal Council, and all the while studied law by correspondence from the well know Lockhart School. Impressed by his legal intellect, although he had never practiced law, Christian was allowed to take the bar exam without having attended law school. He passed at his first attempt with high marks and was admitted to the V.I. Bar in 1949.

Christian became involved with civic and political organizations while studying law by correspondence with the well-known LaSalle School. His activity in politics began with his involvement in the first political party, the V.I. Progressive Guide. That position was the springboard to other positions such as Executive Secretary to the Municipal Council and the Legislative Assembly.

He was named legal aide to the Municipal Council of St. Thomas and St. John and the Legislative Assembly in 1949 and Judge of the Police Court in 1951. For three years he served as Clerk Judge of the Police Court. He also served as Coroner Recorder of Deeds, Chairman of the Board of Elections, United States Commissioner and Chairman of the Fourth of July Celebrations.

In 1972, he was appointed Commissioner of Public Safety of the Virgin Islands and served in the position until 1975, when he practiced law full-time. In April 1978, he was named the first Senior Sitting Judge of the Territorial

HON. JIM RAMSTAD
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Mr. RAMSTAD. Mr. Speaker, today marks the 15th anniversary of landmark civil rights legislation for Americans with disabilities—the passage of the Americans with Disabilities Act. This landmark law was passed with strong bipartisan support and signed into law by President George H.W. Bush. As we mark the 15th anniversary of this historic event, we celebrate the tremendous progress and new doors that have been opened to individuals with disabilities as a result of the ADA.

The purpose of the ADA was to provide clear and comprehensive national standards to eliminate discrimination against individuals with disabilities. As a result, individuals with disabilities are now able to live in their homes and have access to new careers. Accessible buses and trains and better paratransit systems have made it possible for more people with disabilities to get to work and school, enjoy restaurants and theaters and travel.

The ADA has improved society, not only for the 14 percent of Americans over the age of five who have at least one disability. Common-sense accommodations like curb cuts and close captioning have also benefited Americans without disabilities.

On this important anniversary, we must remember that while we have come a long way in eliminating barriers, critical work remains to ensure all Americans can live up to their full potential. Tragically, we still have stereotypes and misconceptions that affect people with disabilities. Sadly, we still have examples like the boy in Pennsylvania who was the target of discrimination by his T-ball coach. This is not an isolated incident, as I have learned of another boy in Kansas who was denied the right to play T-ball like any other 7-year-old because he had cerebral palsy. Fortunately, because of the ADA, that boy was eventually allowed to play T-ball.

Giving people with disabilities the right to participate fully in society is what this landmark legislation is all about.

As co-chair of the Bipartisan Disabilities Caucus, I know that the ADA is a major achievement and much has been accomplished over the last 15 years. As we celebrate how far we’ve come, let us also recommit to creating a society in which no barrier stands in the way of fully participating in our society.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes on July 22, 2005. If I had been present, I would have voted as follows:

Rollcall vote 415, on agreeing to the T-Ball Resolution. I would have voted “aye.”

Rollcall vote 416, on passage of H.R. 3070—the National Aeronautics and Space Administration Authorization Act, I would have voted “aye.”

Rollcall vote 417, on passage of H.R. 3071—the National Aeronautics and Space Administration Authorization Act, I would have voted “aye.”

HON. DONNA M. CHRISTENSEN
OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mrs. CHRISTENSEN. Mr. Speaker, the United States Virgin Islands has lost one of its outstanding success stories as prominent lawyer and Judge Alphonso Christian passed away Saturday, July 23, 2005.

With the passing of this Native son we have lost a premiere trail blazer. This outstanding Virgin Islander, born in Frederiksted, St. Croix, made substantial contributions to the Territory and in particular to the island of St. Thomas, the place he sailed to as a young man to begin his career. St. Thomas became his home, and it is where he began a flourishing and illustrious career, raising his children to be another generation of a progressive Family that is especially renowned in St. Croix for its industriousness, hardwork and diligence.

Christian, 83, died of heart failure at St. Joseph L. Schneider Hospital on St. Thomas. A jurist, attorney, government administrator, teacher and community activist, Christian had arisen from humble beginnings on St. Croix. Christian was born on August 2, 1916 to Peter and Wilhelmina Christian in Frederiksted. He had a disciplined upbringing and strong will to succeed during his child hood set the tone for his achievements to come.

He graduated as the Valedictorian of the Commercial Class at St. Patrick’s and started as Clerk Typist at the Post Office at Anna’s Hope. He later came to St. Thomas where his speed and accuracy in this position paved the way for his becoming the Stenographer to Mr. Herbert Lockhart of the A.H. Lockhart & Co., a company that was the hub of all commercial activity on St. Thomas. He worked his way from stenographer to reporter, and served as secretary of the Virgin Islands Municipal Council, and all the while studied law by correspondence from the well know Lockhart School. Impressed by his legal intellect, although he had never practiced law, Christian was allowed to take the bar exam without having attended law school. He passed at his first attempt with high marks and was admitted to the V.I. Bar in 1949.

Christian became involved with civic and political organizations while studying law by correspondence with the well-known LaSalle School. His activity in politics began with his involvement in the first political party, the V.I. Progressive Guide. That position was the springboard to other positions such as Executive Secretary to the Municipal Council and the Legislative Assembly.

He was named legal aide to the Municipal Council of St. Thomas and St. John and the Legislative Assembly in 1949 and Judge of the Police Court in 1951. For three years he served as Clerk Judge of the Police Court. He also served as Coroner Recorder of Deeds, Chairman of the Board of Elections, United States Commissioner and Chairman of the Fourth of July Celebrations.

In 1972, he was appointed Commissioner of Public Safety of the Virgin Islands and served in the position until 1975, when he practiced law full-time. In April 1978, he was named the first Senior Sitting Judge of the Territorial
INTRODUCTION OF A RESOLUTION RECOGNIZING THE CENTENNIAL OF SUSTAINED IMMIGRATION FROM THE PHILIPPINES TO THE UNITED STATES

HON. ED CASE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 26, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce, together with 29 of my colleagues, a concurrent resolution to formally recognize the 2006 centennial of sustained Filipino immigration to the United States, acknowledge the many achievements of our Filipino-American community, and reflect on the productive and enduring relationship between the United States and the Philippines over the past century.

The Filipino-American experience and the evolving yet always close relationship between the Philippines and the United States began in earnest in 1906, when fifteen Filipino contract laborers arrived in the then-Territory of Hawaii to work on the islands' sugar plantations. This marked the start of an emigration from the Philippines to the United States which, during the subsequent century, has numbered upwards of 60,000 a year, making Filipinos our second-largest immigrant group from the Asia-Pacific region.

The year 1906 was also when the first class of two hundred "pensionados" arrived from the Philippines to obtain a United States education with the intent of returning to the Philippines. Many, however, stayed to become American citizens, forming, with the "sakadas" who emigrated to my Hawaii, the foundation of today's Filipino-American community.

The story of America's Filipino-American community is little known and rarely told. Yet it is the quintessential immigrant story of early struggle, pain, sacrifice, and broken dreams, leading eventually to success in overcoming ethnic, social, economic, political, and legal barriers to win a well-deserved place in American society.

Today, 2.4 million Americans of Filipino ancestry live throughout our Nation, including the two top states: California, where 1.1 million reside, and Hawaii, my home state, where some 275,000 live (140,000 in my Second Congressional District alone, making it home to the largest number of Filipino Americans of any congressional district).

Members of this community have made great contributions to America, and have achieved success and distinction in, among other things, labor, business, politics, media and the arts, medicine, and the armed forces. Filipino Americans have also served with distinction in the armed forces of the United States throughout the long U.S.-Philippines relationship, from World Wars I and II through the Korean War, the Vietnam War, the Gulf War, and today in Afghanistan, Iraq and elsewhere.

Many Filipino Americans retained their mother country's proud cultural traditions, which continue to enrich the diverse tapestry of today's American experience. Many have also maintained close ties to family and friends in the Philippines, and therefore played an indispensable role in maintaining the strength and vitality of the U.S.-Philippines relationship.

That relationship has evolved over the past century from the 1898-1946 period of U.S. governance, during which the then-Commonwealth of the Philippines was represented in the U.S. Congress by thirteen resident commissioners, to the post-independence period beginning in 1946, when the Philippines took its place among the community of nations and became one of this country's most reliable allies in the international arena.

In 2006, our Filipino-American community will join all Americans in pause to recognize a century of achievement in the United States through a series of nationwide celebrations and memorials marking the centennial of sustained immigration from the Philippines. This centennial will provide every American of whatever ethnic heritage an opportunity to not only celebrate a century of Filipino immigration to the United States, but to celebrate, appreciate, and honor the struggles and triumphs common to the immigrant experience, which, of course, is also the American experience.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 28, 2005 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

SEPTEMBER 7
Time to be announced
Homeland Security and Governmental Affairs
To hold hearings to examine NASA passenger aircraft.
SD–562

SEPTEMBER 20
10 a.m.
Veterans’ Affairs
To hold joint hearings with the House Committee on Veterans’ Affairs to examine the legislative presentation of the American Legion.
345 CHOB
Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S9059–S9086

Measures Introduced: Eighteen bills and four resolutions were introduced, as follows: S. 4, 1504–1520, S. Res. 215–217, and S. Con. Res. 48. (See next issue.)

Measures Reported:

S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, with an amendment in the nature of a substitute. (S. Rept. No. 109–110)

S. 1418, to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States, with an amendment in the nature of a substitute. (S. Rept. No. 109–111) (See next issue.)

Measures Passed:

Medical Device User Fee Stabilization Act: Senate passed H.R. 3423, to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees, clearing the measure for the President. (See next issue.)

Foundation for the National Institutes of Health Improvement Act: Senate passed S. 302, to make improvements in the Foundation for the National Institutes of Health, after agreeing to the committee amendment in the nature of a substitute. (See next issue.)

National Foundation for the Centers for Disease Control and Prevention: Senate passed S. 655, to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention, after agreeing to the committee amendment in the nature of a substitute. (See next issue.)

Jornada Experimental Range Transfer Act: Committee on Agriculture, Nutrition and Forestry was discharged from further consideration of S. 447, to authorize the conveyance of certain Federal land in the State of New Mexico, and the bill was then passed. (See next issue.)

Women’s Business Center Grants: Senate passed S. 1517, to permit Women’s Business Centers to recompete for sustainability grants. (See next issue.)

Honoring World War II Veterans: Senate agreed to S. Res. 216, expressing gratitude and appreciation to the men and women of the United States Armed Forces who served in World War II, commending the acts of heroism displayed by those servicemembers, and recognizing the “Greatest Generation Homecoming Weekend” to be held in Pittsburgh, Pennsylvania. (See next issue.)

National Marina Day: Senate agreed to S. Res. 217, designating August 13, 2005, as “National Marina Day”. (See next issue.)

National Historically Black Colleges Week: Committee on the Judiciary was discharged from further consideration of S. Res. 158, expressing the sense of the Senate that the President should designate the week beginning September 11, 2005, as “National Historically Black Colleges and Universities Week”, and the resolution was then agreed to. (See next issue.)

National Airborne Day: Committee on the Judiciary was discharged from further consideration of S. Res. 86, designating August 16, 2005, as “National Airborne Day” and the resolution was then agreed to, after agreeing to the following amendment proposed thereto:

McConnell (for Hagel) Amendment No. 1628, to provide that the people of the United States observe “National Airborne Day” with appropriate programs, ceremonies and activities. (See next issue.)

30th Anniversary of the Helsinki Act: Committee on Foreign Relations was discharged from further consideration of S.J.Res. 19, calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act, and the joint resolution was then passed. (See next issue.)

Commemorating Polish Workers Strike Anniversary: Committee on the Judiciary was discharged
from further consideration of S. Res. 198, commemorating the 25th anniversary of the 1980 worker’s strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe, and the resolution was then agreed to.

(See next issue.)

National Attention Deficit Disorder Awareness Day: Committee on the Judiciary was discharged from further consideration of S. Res. 201, designating September 14, 2005, as “National Attention Deficit Disorder Awareness Day”, and the resolution was then agreed to.

(See next issue.)

People-to-People Engagement in World Affairs: Committee on Foreign Relations was discharged from further consideration of S. Res. 104, expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities, and the resolution was then agreed to, after agreeing to the following amendment proposed thereto:

McConnell (for Feingold) Amendment No. 1629, to make certain corrections to the resolution.

(See next issue.)

Protection of Lawful Commerce in Arms Act: Senate began consideration of S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others, after agreeing to the motion to proceed to consideration of the bill, and taking action on the following amendments proposed thereto: Pages S9059–86

Pending:

Frist (for Craig) Amendment No. 1605, to amend the exceptions.

(See next issue.)

Frist Amendment No. 1606 (to Amendment No. 1605), to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act.

(See next issue.)

Reed (for Kohl) Amendment No. 1626, to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun.

(See next issue.)

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Friday, July 29, 2005.

(See next issue.)

A unanimous-consent agreement was reached providing that on Thursday, July 28, 2005, there be one hour equally divided for debate in relation to Kohl Amendment No. 1626 (listed above); that following the use or yielding back of time, Senate proceed to a vote in relation to the Kohl Amendment with no amendment in order prior to the vote.

(See next issue.)

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 10:30 a.m. on Thursday, July 28, 2005; provided further, that Senators have until 1 p.m. to file first-degree amendments.

(See next issue.)

Defense Authorization—Agreement: A unanimous-consent agreement was reached providing that at any time determined by the Majority Leader, after consultation with the Democratic Leader, the Senate would resume consideration of S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces.

(See next issue.)

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that during this adjournment of the Senate, the Majority Leader and Majority Whip be authorized to sign duly enrolled bills or joint resolutions.

(See next issue.)

Highway Extension Agreement: A unanimous-consent agreement was reached providing that notwithstanding the recess or adjournment of the Senate, that when the Senate receives from the House of Representatives a short-term highway extension, the bill be considered, read a third time and passed.

(See next issue.)

Nominations Received: Senate received the following Nominations:

Keith E. Gottfried, of California, to be General Counsel of the Department of Housing and Urban Development.

Alfred Hoffman, of Florida, to be Ambassador to the Republic of Portugal.


Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

Diane Rivers, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.
Jan Cellucci, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

1 Army nomination in the rank of general.

Messages From the House: (See next issue.)

Measures Referred: (See next issue.)

Measures Placed on Calendar: (See next issue.)

Executive Communications: (See next issue.)

Additional Cosponsors: (See next issue.)

Statements on Introduced Bills/Resolutions: (See next issue.)

Additional Statements: (See next issue.)

Amendments Submitted: (See next issue.)

Notices of Hearings/Meetings: (See next issue.)

Authority for Committees to Meet: (See next issue.)

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:40 p.m. until 9:30 a.m., on Thursday, July 28, 2005. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S9086.)

**Committee Meetings**

(Committees not listed did not meet)

**CONSERVATION RESERVE PROGRAM**

Committee on Agriculture, Nutrition, and Forestry: Subcommittee on Forestry, Conservation, and Rural Revitalization concluded an oversight hearing to examine the Conservation Reserve Program, the voluntary program for agricultural landowners that provides annual rental payments and cost-share assistance to establish long-term, resource-conserving covers on eligible farmland, after receiving testimony from James R. Little, Administrator, Farm Service Agency, Department of Agriculture; Dan Forster, Georgia Department of Natural Resources, Social Circle; Sherman Reese, Echo, Oregon, on behalf of the National Association of Wheat Growers; Kendell W. Keith, National Grain and Feed Association, and Krysta Harden, National Association of Conservation Districts, both on behalf of sundry groups, both of Washington, D.C.; and Jeffrey W. Nelson, Ducks Unlimited, Inc., Bismarck, North Dakota, on behalf of sundry groups.

**NATIONAL ALERT SYSTEM**

Committee on Commerce, Science, and Transportation: Subcommittee on Disaster Prevention and Prediction concluded a hearing to examine the need for a national all-hazards alert and public warning system, focusing on the role and activities of the Federal Government to ensure the quick and accurate dissemination of alert and warning information, after receiving testimony from Reynold N. Hoover, Director, Office of National Security Coordination, Federal Emergency Management Agency, Department of Homeland Security; Kenneth Moran, Acting Director, Office of Homeland Security; Kenneth Paese, Director, Maintenance, Logistics and Acquisition Division, National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce; and Christopher E. Guttman-McCabe, CTIA—The Wireless Association, Richard Taylor, ComCARE Alliance, and John M. Lawson, Association of Public Television Stations, all of Washington, D.C.

**FAIR RATINGS ACT**

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine S. 1372, to provide for the accuracy of television ratings services, focusing on Nielsen’s implementation of the local people meter (LMP) service, after receiving testimony from George Ivie, Media Rating Council, Inc., Susan Whiting, Nielsen Media Research, Ciril Shagrin, Univision, and Kathy Crawford, MindShare, all of New York, New York; Patrick M. Mullen, Tribune Broadcasting Company, Chicago, Illinois; and Gale Metzger, SMART Media, Cranford, New Jersey.

**HYDROGEN AND FUEL CELL RESEARCH**

Committee on Energy and Natural Resources: Subcommittee on Energy concluded a hearing to examine recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry, including challenges to the development of these technologies, after receiving testimony from Douglas L. Faulkner, Acting Assistant Secretary of Energy for Energy Efficiency and Renewable Energy; Jeremy Bentham, Royal Dutch Shell, Amsterdam, The Netherlands; Lawrence D. Burns, General Motors Corporation, Warren, Michigan; and Dennis Campbell, Ballard Power Systems, Burnaby, British Columbia.

**MEDICARE**

Committee on Finance: Committee held a hearing to examine the role of value-based purchasing relating to improving quality in Medicare, focusing on the use of pay-for-performance reimbursement systems within the Medicare program, receiving testimony from Herb Kuhn, Director, Center for Medicare Management, Centers for Medicare and Medicaid Services, Department of Health and Human Services;
Mark E. Miller, Executive Director, Medicare Payment Advisory Commission; Thomas Byron Thames, AARP, and Nancy H. Nielsen, American Medical Association, both of Washington, D.C.; Leo P. Brideau, Columbia St. Mary’s, Milwaukee, Wisconsin, on behalf of the American Hospital Association; and James J. Mongan, Partners HealthCare, Boston, Massachusetts.

Hearing recessed subject to the call.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the Nominations of William J. Burns, of the District of Columbia, to be Ambassador to the Russian Federation, who was introduced by Senator Hagel; William Robert Timken, Jr., of Ohio, to be Ambassador to the Federal Republic of Germany, who was introduced by Senators Voinovich, DeWine, and Allen; Richard Henry Jones, of Nebraska, to be Ambassador to Israel; and Francis Joseph Ricciardone, Jr., of New Hampshire, to be Ambassador to the Arab Republic of Egypt, after the nominees testified and answered questions in their own behalf.

UNITED NATIONS PEACEKEEPING REFORM

Committee on Foreign Relations: Subcommittee on International Operations and Terrorism concluded a hearing to examine United Nations peacekeeping reform efforts, focusing on exploitation by United Nations peacekeepers of civilian populations, relating to the need for stronger oversight, investigative and disciplinary procedures, and training to prevent such abuse, after receiving testimony from Philo L. Dibble, Acting Assistant Secretary of State for International Organization Affairs.

Also, committee received a briefing on United Nations peacekeeping efforts from H.R.H. Prince Zeid Ra’ad Zeid Al-Hussein, Permanent Representative of the Hashemite, Kingdom of Jordan, and Jane Holl Lute, Assistant Secretary General, Peacekeeping Operations, both of the United Nations.

CHEMICAL FACILITIES SECURITY

Committee on Homeland Security and Governmental Affairs: Committee held a hearing to determine whether the Federal government is doing enough to secure chemical facilities, focusing on security operations relating to marine transportation, the fertilizer industry, and the industrial sector, receiving testimony from Rear Admiral Craig E. Bone, Director of Port Security, Maritime Safety, Security, and Environmental Protection Directorate, U.S. Coast Guard, Department of Homeland Security; Robert A. Full, Allegheny County Department of Emergency Services, Pittsburgh, Pennsylvania; Beth Turner, E.I. du Pont de Nemours and Company, Inc., Wilmington, Delaware; Jim L. Schellhorn, Terra Industries, Inc., Washington, D.C., on behalf of The Fertilizer Institute; and John P. Chamberlain, Shell Oil Company, Houston, Texas, on behalf of the American Petroleum Institute.

SECURITIES AND EXCHANGE COMMISSION


INDIAN GAMING

Committee on Indian Affairs: Committee concluded an oversight to examine lands eligible for gaming pursuant to the Indian Gaming Regulatory Act, after receiving testimony from Senators Voinovich and Vitter; George T. Skibine, Acting Deputy Assistant Secretary of the Interior for Policy and Economic Development for Indian Affairs; Penny J. Coleman, Acting General Counsel, National Indian Gaming Commission; Walter Gray, Guidiville Band of Pomo Indians, Talmage, California; Christine Norris, The Jena Band of Choctaw Indians, Jena, Louisiana; John R. Barnett, Cowlitz Indian Tribe, Longview, Washington; and Charles D. Enyart, Eastern Shawnee Tribe of Oklahoma, Seneca, Missouri.

FBI OVERSIGHT

Committee on the Judiciary: Committee concluded an oversight hearing to examine the Federal Bureau of Investigation, focusing on the creation of an intelligence service within the Federal Bureau of Investigation, specifically impacting the language program, information technology capabilities, and ability to recruit, hire, train, and retain expertise, after receiving testimony from former Representative Lee Hamilton, on behalf of the National Commission on Terrorist Attacks Upon the United States; Robert S. Mueller, III, Director, Federal Bureau of Investigation, and Glenn A. Fine, Inspector General, both of the Department of Justice; William H. Webster, Milbank, Tweed, Hadley, and McCloy, LLP, former Director, Federal Bureau of Investigation, and John A. Russack, Information Sharing Environment, both of Washington, D.C.
INTELLIGENCE
Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

ELDERLY VICTIMIZATION
Special Committee on Aging: Committee concluded a hearing to examine the victimization of the elderly through scams, focusing on internet fraud, prize and sweepstakes fraud, health-related fraud, identity theft, and consumer education, after receiving testimony from Lois C. Greisman, Associate Director, Division of Planning and Information, Federal Trade Commission; Zane M. Hill, Acting Assistant Chief Inspector, U.S. Postal Inspection Service; Anthony R. Pratkanis, University of California at Santa Cruz; Denise C. Park, University of Illinois Beckman Institute, Urbana-Champaign; Helen Marks Dicks, Coalition of Wisconsin Aging Groups, Madison; and Vicki Hersen, Elders in Action, Portland, Oregon.

House of Representatives

Chamber Action
Public Bills and Resolutions Introduced: 45 public bills, H.R. 3449–3493; 2 private bills, H.R. 3494–3495; and 7 resolutions, H. Con. Res. 219–223; and H. Res. 391, 397 were introduced.

(See next issue.)

Additional Cosponsors: (See next issue.)

Reports Filed: Reports were filed today as follows:
- Conference Report on H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy (H. Rept. 109–190);
- H.R. 1132, to provide for the establishment of a controlled substance monitoring program in each State, amended (H. Rept. 109–191);
- H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools, amended (H. Rept. 109–192);
- H. Con. Res. 208, recognizing the 50th anniversary of Rosa Louise Parks’ refusal to give up her seat on the bus and the subsequent desegregation of American society (H. Rept. 109–193);
- H. Res. 336, requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in “National Night Out”, which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security (H. Rept. 109–194);
- H. Con. Res. 216, expressing the sense of the Congress that, as Congress observes the 40th anniversary of the Voting Rights Act of 1965 and encourages all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans (H. Rept. 109–195);
- H. Res. 378, recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990 (H. Rept. 109–196, Pt. 1);
- H.R. 3205, amending 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, amended (H. Rept. 109–197);
- H. Res. 392, waiving points of order against the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006 (H. Rept. 109–198);
- H. Res. 393, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 109–199);
- H. Res. 394, waiving points of order against consideration of the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy (H. Rept. 109–200);
- H. Res. 395, providing for consideration of motions to suspend the rules (H. Rept. 109–201); and
- H. Res. 396, waiving points of order against the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006 (H. Rept. 109–202).

Pages H6691–H6836 (continued next issue)

Speaker: Read a letter from the Speaker wherein he appointed Representative Bonilla to act as speaker pro tempore for today.

Chaplain: The prayer was offered today by Rev. Lawrence Hargrave, Colgate Rochester Crozer Divinity School in Rochester, New York.

Page H6653
United States Trade Rights Enforcement Act: The House passed H.R. 3283, to enhance resources to enforce United States trade rights, by a yea-and-nay vote of 255 yeas to 168 nays, Roll No. 457.

(See next issue.)

Rejected the Cardin motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 195 yeas to 232 nays, Roll No. 436. (See next issue.)

Pursuant to the rule, the amendment in the nature of a substitute printed in H. Rept. 109–187, was adopted.

H. Res. 387, the rule providing for consideration of the bill was agreed to by a recorded vote of 228 ayes to 200 noes, Roll No. 433, after agreeing to order the previous question by a yea-and-nay vote of 226 yeas to 202 nays, Roll No. 432.

Pages H6658–68 (continued next issue)

Suspensions: The House agreed to suspend the rules and pass the following measures:

State High Risk Pool Funding Extension Act of 2005: H.R. 3204, amended, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools; Pages H6668–71

Controlled Substances Export Reform Act of 2005: S. 1395, to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied;—clearing the measure for the President; Pages H6671–73

Patient Safety and Quality Improvement Act of 2005: S. 544, 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, by a 2/3 yea-and-nay vote of 428 yeas to 5 nays, Roll No. 434;—clearing the measure for the President;

Pages H6673–79 (continued next issue)

Amending the Controlled Substances Act with regard to patient limitations on prescribing drug addiction treatments: S. 45, to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, by a 2/3 yea-and-nay vote of 429 yeas with none voting ‘‘nay’’, Roll No. 435;—clearing the measure for the President;

Pages H6679–81 (continued next issue)

National All Schedules Prescription Electronic Reporting Act of 2005: H.R. 1132, amended, to provide for the establishment of a controlled substance monitoring program in each State;

(See next issue.)

Encouraging the Transnational Assembly of Iraq to adopt a constitution that grants women equal rights: H. Res. 383, encouraging the Transnational National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights, by a 2/3 yea-and-nay vote of 426 yeas with none voting ‘‘nay’’, Roll No. 438; Pages H6686–91 (continued next issue)

Condemning the terrorist attacks in Sharm el-Sheik, Egypt on July 23, 2005: H. Res. 384, condemning in the strongest terms the terrorist attacks in Sharm el-Sheikh, Egypt, on July 23, 2005, by a 2/3 yea-and-nay vote of 428 yeas with none voting ‘‘nay’’, Roll No. 439;

(See next issue.)


(See next issue.)

Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2005—Rule for Consideration: The House agreed to H. Res. 385, the rule providing for consideration of H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, by a recorded vote of 226 ayes to 200 noes with one voting ‘‘present’’, Roll No. 441, after agreeing to order the previous question by a yea-and-nay vote of 226 yeas to 200 nays with 1 voting ‘‘present’’, Roll No. 440.

(See next issue.)

Dominican Republic-Central American-United States Free Trade Agreement Implementation Act: The House passed H.R. 3045, to implement the Dominican Republic-Central America-United States Free Trade Agreement, by a recorded vote of 217 ayes to 215 noes, Roll No. 443. (See next issue.)

H. Res. 386, the rule providing for consideration of the bill was agreed to by a yea-and-nay vote of 227 yeas to 201 nays, Roll No. 442. (See next issue.)

Surface Transportation Extension Act: The House passed H.R. 3453, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century. (See next issue.)
National Committee on Vital and Health Statistics—Reappointment: The Chair announces the Speaker's reappointment of Mr. Jeffrey S. Blair of Albuquerque, New Mexico to the National Committee on Vital and Health Statistics. (See next issue.)

Senate Messages: Messages received from the Senate today will appear in the next issue.

Senate Referrals: S. 264, S. 1480, S. 243, S. 1481, S. 1482, S. 203, S. 1484, S. 1485, S. 178, S. 207, S. 229, S. 231, S. 232, S. 253, S. 276, S. 54, S. 128, S. 152, S. 182, S. 205, S. 214, S. 301, S. 47, S. 52, S. 56, S. 97, S. 101, S. 153, S. 212, S. 252, and S. 279 were referred to the Committee on Resources; S. 706 was referred to the Committee on Transportation and Infrastructure; S. 1483 was referred to the Committee on Education and the Workforce; S. 176, S. 285, and S. 244 were referred to the Committee on Energy and Commerce; S. 442 was referred to the Committee on the Judiciary; S. 225 was referred to the Committees on Resources, Agriculture and Government Reform; S. 263 was referred to the Committees on Resources and Agriculture; S. 136 was referred to the Committees on Resources and Education and the Workforce; and S. 272, S. 55, S. 156, and S. 161, were held at the desk. (See next issue.)

Quorum Calls—Votes: 10 yea-and-nay votes and 3 recorded votes developed during the proceedings of today will appear in the next issue. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 12:15 a.m.

Committee Meetings

MISCELLANEOUS MEASURES
Committee on Agriculture: Ordered favorably reported the following bills: H.R. 3421, To reauthorize the United States Grain Standards Act, to facilitate the official inspection at export locations of grain required or authorized to be inspected under such Act; and H.R. 3408, To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

CHINESE MILITARY POWER
Committee on Armed Services: Held a hearing on Chinese military power. Testimony was heard from Franklin Kramer, former Assistant Secretary, International Security Affairs, Department of Defense; and public witnesses.

TERRORISM INSURANCE FUTURE
Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing on the Future of Terrorism Insurance. Testimony was heard from Howard Mills, Superintendent, New York Insurance Department; Lawrence H. Mirel, Commissioner, Department of Insurance and Securities, District of Columbia; and public witnesses.

BRAC AND BEYOND
Committee on Government Reform: Held a hearing entitled “BRAC and Beyond: An Examination of the Rationale Behind Federal Security Standards for Leased Space.” Testimony was heard from Representative Moran of Virginia; Dwight M. Williams, Chief Security Officer, Department of Homeland Security; F. Joseph Moravec, Commissioner, Public Buildings Service, GSA; John Jester; and the following officials of the Department of Defense: John Jester, Director, Pentagon Force Protection Agency; and Get Moy, Director, Installation Requirements and Management.

HYDROGEN ECONOMY
Committee on Government Reform: Subcommittee on Energy and Resources held a hearing entitled “The Hydrogen Economy: Is it Attainable? When?” Testimony was heard from Douglas L. Faulkner, Acting Secretary, Energy Efficiency and Renewable Energy, Department of Energy; Richard M. Russell, Associate Director, Technology, Office of Science and Technology Policy; Alan Lloyd, Secretary, Environmental Protection Agency, State of California; and public witnesses.

IMPROVE HEALTHCARE USING INFORMATION TECHNOLOGY
Committee on Government Reform: Subcommittee on Federal Workforce and Agency Organization held a hearing entitled “Is There a Doctor in the Mouse?: Using Information Technology to Improve Healthcare.” Testimony was heard from Representative Kennedy of Rhode Island; Linda M. Springer, Director, OPM; the following officials of the Department of Health and Human Services: David Brailer, M.D., National Health Information Technology Coordinator; and Caroline Clancy, M.D., Director, Agency for Health Care Research and Quality; and public witnesses.

DHS IN TRANSITION
Committee on Government Reform: Subcommittee on Government Management, Finance, and Accountability held a hearing entitled “DHS in Transition—Are Financial Management Problems Hindering Mission Effectiveness?” Testimony was heard from the following officials of the Department of Homeland Security: Janet Hale, Under Secretary, Management; Andrew Maner, Chief Financial Officer; and Richard Skinner, Acting Inspector General; and Linda
Combs, Controller, Office of Federal Financial Management, OMB.

REGULATORY REFORM
Committee on Government Reform: Subcommittee on Regulatory Affairs held a hearing entitled "Regulatory Reform: Are Regulations Hindering Our Competitiveness?" Testimony was heard from Representatives Hayworth, Kelly, Ney, Miller of Michigan, Lynch and Westmoreland; J. Christopher Mihm, Managing Director, Strategic Issues, GAO; Curtis W. Copeland, Specialist in American National Government, CRS, Library of Congress; and public witnesses.

BORDER SECURITY SYSTEM'S INTEGRITY—FEDERAL-STATE PARTNERSHIPS
Committee on Homeland Security: Subcommittee on Management, Integration, and Oversight held a hearing entitled "The 287(g) Program: Ensuring the Integrity of America's Border Security System through Federal-State Partnerships." Testimony was heard from Paul M. Kilcoyne, Deputy Assistant Director, Office of Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security; Mark F. Dubina, Special Agent Supervisor, Tampa Bay Regional Operations Center, Department of Law Enforcement, State of Florida; Charles E. Andrews, Chief, Administrative Division, Department of Public Safety, State of Alabama; and public witnesses.

UKRAINE
Committee on International Relations: Subcommittee on Europe and Emerging Threats held a hearing on Ukraine: Developments in the Aftermath of the Orange Revolution. Testimony was heard from Daniel Fried, Assistant Secretary, Bureau for European and Eurasian Affairs, Department of State; and public witnesses.

ENERGY SECURITY—TERRORIST THREATS
Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation held a hearing on Terrorist Threats to Energy Security. Testimony was heard from public witnesses.

SYRIA AND THE UN OIL-FOR-FOOD PROGRAM
Committee on International Relations: Subcommittee on Oversight and Investigation and the Subcommittee on the Middle East and Central Asia held a joint hearing on Syria and the United Nations Oil-for-Food Program. Testimony was heard from Elizabeth L. Dibble, Deputy Assistant Secretary, Bureau of Near Eastern Affairs, Department of State; Dwight Sparlin, Director, Operations, Policy, and Support; Criminal Investigation Division, IRS, Department of the Treasury; and a public witness.

U.S. DIPLOMACY IN LATIN AMERICA
Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on U.S. Diplomacy in Latin America. Testimony was heard from the following officials of the Department of State: Roger Noriega, Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; John Maisto, U.S. Representative on the Council of the OAS, Department of State; and public witnesses.

MISCELLANEOUS MEASURES
Committee on the Judiciary: Ordered favorably reported the following measures: H.R. 3132, Children's Safety Act of 2005; H.R. 3402, Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009; H. Res. 356, Requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in "National Night Out," which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security; H. Res. 378, Recognizing and honoring the 15th anniversary of the signing of the Americans with Disabilities Act of 1990; H. Con. Res. 216, Expressing the sense of the Congress that, as Congress observes the 40th anniversary of the Voting Rights Act of 1965 and encourages all Americans to do the same, it will advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans; and H. Con. Res. 208, Recognizing the 50th anniversary of Rosa Louise Parks' refusal to give up her seat on the bus and the subsequent desegregation of American society.

CONFERENCE REPORT—ENERGY POLICY ACT OF 2005
Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 6, Energy Policy Act of 2005, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Barton of Texas and Representative Dingell.
CONGRESSIONAL RECORD — DAILY DIGEST

CONFERENCE REPORT—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Representatives Taylor of North Carolina and Dicks.

CONFERENCE REPORT—LEGISLATIVE BRANCH APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2985, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Lewis of California.

INTERNATIONAL MULTI-YEAR BUDGETING COMPARATIVE STUDY

Committee on Rules: Subcommittee on Legislative and Budget Process held a hearing on A Comparative Study of International Multi-Year Budgeting. Testimony was heard from Barry Anderson, former Deputy Director, CBO; and public witnesses.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Committee on Rules: Granted, by voice vote, a rule providing that suspensions will be in order at any time on the legislative day of Thursday, July 28, 2005. The rule provides that the Speaker or his designee shall consult with the Minority Leader or her designee on any suspension considered under the rule.

SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of July 28, 2005, providing for consideration or disposition of a conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

SBA’S VENTURE CAPITAL PROGRAM

Committee on Small Business: Held a hearing on the importance of amending the Small Business Investment Act of 1958 to establish a participating debenture program to assist small businesses in gaining access to much needed capital. Testimony was heard from Jaime A. Guzman-Fournier, Associate Administrator, Investment, SBA; and a public witness.

BIOTECHNOLOGY INDUSTRY IMPORTANCE

Committee on Small Business: Subcommittee on Rural Enterprises, Agriculture and Technology, hearing entitled “The Importance of the Biotechnology Industry and Venture Capital Support in Innovation.” Testimony was heard from public witnesses.

OVERSIGHT—POST TRAUMATIC STRESS DISORDER

Committee on Veterans’ Affairs: Held an oversight hearing on the Department of Defense and the Department of Veterans Affairs: The Continuum of Care for Post Traumatic Stress Disorder. Testimony was heard from the following officials of the Department of Defense: COL Charles W. Hoge, M.D., Chief of Psychiatry and Behavior Sciences, Division of Neurosciences, Walter Reed Army Institute of Research; LTC Charles C. Engle, Jr., M.D., Chief, DoD Deployment Health Clinical Center, Walter Reed Army Medical Center, both with the U.S. Army; and Michael E. Kilpatrick, M.D. Deputy Under Secretary, Health, Veterans Health Administration; and Mark Shelhorse, M.D., Deputy Chief Patient Care Services Officer for Mental Health and Chief Medical Officer for VISN 6; representatives of veterans organizations; and public witnesses.

VETERANS MEASURES


VETERANS LEGISLATION

Committee on Veterans’s Affairs: Subcommittee on Economic Opportunity held a hearing on the following:
H.R. 3082, Veteran-Owned Small Business Promotion Act of 2005; H.R. 1773, Native American Veteran Home Loan Act; a measure to Establish an Office of Disabled Veterans Sports and Special Events; a measure to require the Veterans' Employment and Training Service to Establish Qualification Standards for Disabled Veteran Outreach Specialists and Local Veteran Employment Representatives; a measure to increase the Disabled Veteran Adaptive Housing Grant; and a measure to Provide for a Disabled Veteran Transitional Housing Grant. Testimony was heard from Delegate Faleomavaega; John M. McWilliam, Deputy Assistant Secretary, Operations and Management, Veterans' Employment and Training Service, Department of Labor; Keith Pedigo, Director, Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs; and representatives of veterans organizations.

HEALTH CARE INFORMATION TECHNOLOGY
Committee on Ways and Means: Subcommittee on Health held a hearing on Health Care Information Technology (IT). Testimony was heard from David Brailer, M.D., National Coordinator, Health Information Technology, Department of Health and Human Services; and public witnesses.

GLOBAL MISSILE THREATS
Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Global Missile Threats. Testimony was heard from departmental witnesses.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D 807)
H.R. 3071, to permit the individuals currently serving as Executive Director, Deputy Executive Directors, and General Counsel of the Office of Compliance to serve one additional term. Signed on July 27, 2005. (Public Law 109–38)

COMMITTEE MEETINGS FOR THURSDAY, JULY 28, 2005
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Armed Services: to hold hearings to examine the nominations of Lieutenant General Norton A. Schwartz, USAF, for appointment to the grade of general and to be Commander, U.S. Transportation Command, Ronald M. Sega, of Colorado, to be Under Secretary of the Air Force, Phillip Jackson Bell, of Georgia, to be Deputy Under Secretary for Logistics and Materiel Readiness, and John G. Grimes, of Virginia, to be Assistant Secretary for Networks and Information Integration, both of the Department of Defense, Keith E. Eastin, of Texas, to be Assistant Secretary of the Army for Installations and Environment, and William Anderson, of Connecticut, to be Assistant Secretary of the Air Force for Installations, Environment and Logistics, 9:30 a.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: business meeting to mark up the nominations of Christopher Cox, of California, Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission, and Annette L. Nazareth, of the District of Columbia, each to be a Member of the Securities and Exchange Commission, John C. Dugan, of Maryland, to be Comptroller of the Currency, and John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision, both of the Department of the Treasury, Martin J. Gruenberg, of Maryland, to be Member and Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, S. 705, to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, H.R. 804, to exclude from consideration as income certain payments under the national flood insurance program, S. 1047, to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and S. 190, to address the regulation of secondary mortgage market enterprises, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: business meeting to consider S. 1408, to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft, 10 a.m., SR–253.

Full Committee, to hold hearings to examine issues related to MGM v. Grokster and the appropriate balance between copyright protection and communications technology innovation, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 584 and H.R. 432, bills to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, S. 958, to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, S. 1154, to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, S. 1166, to extend the authorization of the Kalaupapa National Historical Park Advisory Commission, and S. 1346, to direct the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan, 10 a.m., SD–536.

Committee on Indian Affairs: to hold oversight hearings to examine the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101–601), 9:30 a.m., SR–485.
Committee on the Judiciary: business meeting to consider S. 1088, to establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, S. 103, to respond to the illegal production, distribution, and use of methamphetamine in the United States, proposed Personal Data Privacy and Security Act of 2005, S. 751, to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information, S. 1326, to require agencies and persons in possession of computerized data containing sensitive personal information, to disclose security breaches where such breach poses a significant risk of identity theft, S. 155, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, S. 1086, to improve the national program to register and monitor individuals who commit crimes against children or sex offenses, S. 956, to amend title 18, United States Code, to provide assured punishment for violent crimes against children, S. 1197, to reauthorize the Violence Against Women Act of 1994, and certain committee matters, 9:30 a.m., SD–226.

Committee on Veterans’ Affairs: business meeting to consider the nominations of James Philip Terry, of Virginia, to be Chairman of the Board of Veterans’ Appeals, and Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans’ Employment and Training, both of the Department of Veterans’ Affairs, and S. 1182, to amend title 38, United States Code, to improve health care for veterans, S. 716, to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 1235, to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers’ life insurance and veterans’ group life insurance programs, 9:30 a.m., SR–418.

House

Committee on Armed Services, Subcommittee on Terrorism, Unconventional Threats and Capabilities and the Subcommittee on Oversight and Investigations of the Committee on Financial Services, joint hearing on the financing of the Iraqi insurgency, 2 p.m., 2118 Rayburn.


Committee on Government Reform, hearing entitled “Keeping Metro on Track: The Federal Government’s Role in Balancing Investment with Accountability at Washington’s Transit Agency,” 10 a.m., 2154 Rayburn.


Subcommittee on Prevention of Nuclear and Biological Attack, hearing entitled “Implementing the National Biodefense Strategy,” 2 p.m., 1309 Longworth.

Committee on House Administration, hearing on Accessibility of the House Complex for Persons with Special Needs, 10 a.m., 1310 Longworth.

Committee on International Relations, hearing on Lebanon Reborn? Defining National Priorities and Prospects for Democratic Renewal in the Wake of March 14, 2005, 10:30 a.m., 2172 Rayburn.

Subcommittee on Africa, Global Human Rights and International Operations, hearing on China’s Influence in Africa, 2:30 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Immigration, Border Security and Claims, to mark up H.R. 1219, 10:45 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Minerals, oversight hearing on Sustainable Development Opportunities in Mining Communities, Part II, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power, oversight hearing on Implementation of the Westside Regional Drainage Plan as a Way to Improve San Joaquin River Water Quality, 2 p.m., 1324 Longworth.

Committee on Ways and Means, Subcommittee on Select Revenue Measures, hearing on Member Proposals for Tax Reform, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, Briefing on Global Updates, 9 a.m., H–405 Capitol.

Subcommittee on Oversight, hearing on DNI Status, 10 a.m., H–140 Capitol.

Joint Meetings

Joint Economic Committee: to hold hearings to examine alternative automotive technologies and energy efficiency, 10 a.m., 2226 RHOB.
Extensions of Remarks, as inserted in this issue

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Ramstad, Jim, Minn., E1628
Rangel, Charles R., N.Y., E1614, E1615, E1616, E1617
Rehberg, Dennis R., Mont., E1618
Reyes, Silvestre, Tex., E1607
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Saxten, Jim, N.J., E1607
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Van Hollen, Chris, Md., E1607
Weidn, Dave, Fla., E1609
Wilson, Joe, N.J., E1609

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